roskidd StationeryFrom: Ros Kidd
Sent: Wednesday, 9 August 2006 3:20 PM
To: Legal and Constitutional, Committee (SEN)
Subject: Submission to Committee of Inquiry into Stolen Wages

Hello,

I attach my submission to the Stolen Wages Inquiry. Do I need also to submit a hard copy?

I would like to point out that this submission, apart from matters relating to Queensland, is derived from scholarly texts and research and is intended as a guide only to the material which could be uncovered by intensive research into trust money management. Most of the texts cited in my submission refer to primary sources in the states and Territory which can be accessed for greater clarity. The texts and sources I have used are only a small portion of what is available for examination, but were all I could manage given time constraints. Given all states and the Territory controlled wages, benefits and trust funds there is no reason to expect their management was not as flawed as in Queensland where my intensive primary research has revealed the full scope of official dealings on the trust monies.

I will also forward to the Committee two books which detail the controls and mismanagement of Aboriginal trust money in Queensland - The Way We Civlise and Black Lives, Government Lies.
My forthcoming book Trustees on Trial will be available from mid-September and I will forward it also at that time. The latest book contains a comprehensive investigation of financial management in Queensland, analysed in terms of national and international case law relating to the fiduciary duties of governments in dealing with Indigenous finances and property. I am in the process of finishing a study into financial management nationally which is more detailed than the attached submission. It will be published later in the year through ANTaR National and I would like to submit that when it is completed.

Please let me know if this does not fit your requirements.

Regards,

Ros Kidd

INQUIRY INTO STOLEN WAGES

Senate Legal and Constitutional References Committee

Taken on Trust

Submission by Dr Ros Kidd

JULY 2006

Contents

This summary is intended only as a brief guide to the systems whereby governments around Australia controlled Aboriginal labour, wages and trust moneys during most of the twentieth century. The most comprehensive research into government records relates to Queensland,[1] and to a lesser extent to New South Wales.[2] Material gathered from a few books and research projects for other states and territories reveals similar systems of control, raises similar concerns regarding flawed government management of private and trust funds, and underlines the necessity for concentrated investigation to determine the facts.[3]

1. Taking control

Between 1869 and 1911 the mainland states and territories enacted laws specifically to control Aboriginal lives and labour.[4] With minor variations, these laws applied to all people of full descent, people of part-descent living with, or as, Aboriginals, all children of part-descent under the age of 16 years, and all occupants of Aboriginal reserves.

The **Victorian** government passed the *Aborigines Protection Act (1869)* giving an Aborigines Protection Board the power to dictate where people could live, to take custody of their children and to control employment through a system of work contracts. Under the *Aborigines Protection Act (1886)* **Western Australian** governments set a minimum age for contracted labour at 14 years and required employment contracts to be verified by protectors or justices of the peace. But these were optional, cash wages were not mandatory, nor were there set terms of service. **Queensland**'s *Aboriginal Protection and Restriction of the Sale of Opium Act (1897)* gave the government power to banish people to a reserve or contract them out to work; cash wages were not obligatory until after 1901. The **South Australian** parliament passed the *Northern Territory Aborigines Act (1910)* shortly before passing control of the Territory to the Commonwealth in January 1911. This authorised that Aboriginal people could be excluded from towns or banished to a reserve, and could only work under employment licences which set no minimum wage rates.

The *Aborigines Protection Act (1909)* in **New South Wales** empowered the Aborigines Protection Board 'to exercise general supervision and care over all Aborigines' and indenture any Aboriginal child to work. The Board could control tenancy on government stations and reserves, and it appears station managers at times organised external work contracts for inmates and controlled their access to savings. Under the South Australian *Aborigines Act (1911)* the government empowered police to inspect workers and their conditions, but it did not introduce licenses as for the **Northern Territory** nor did it provide for minimum wages, leading the protector at Innamincka to comment 'I think it is about time that slavery is put a stop to among the natives of Australia'.

In the name of 'protection', for much of the twentieth century governments around Australia used their extraordinary powers to control access to schooling and medical care, to diet and shelter, to policing and justice, to domestic and employment conditions and security, to the possibilities and proceeds of labour. Governments had a legal and moral duty to use those powers to improve the lives of Aboriginal wards of state unwillingly dependent upon them. They had a legal and moral duty not to abuse those powers to advantage themselves or any other group.

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[1] See Ros Kidd *Regulating Bodies: administrations and Aborigines in Queensland 1840-1988*, PhD thesis 1994; Ros Kidd *The Way We Civilise*, 1997; Ros Kidd *Black Lives, Government Lies*, 2002; Ros Kidd *Trustees on Trial*, forthcoming September 2006; www.linksdisk.com/roskidd; S Mudaliar, 'Stolen Wages and Fiduciary Duty: A Legal Analysis of Government Accountability to Indigenous Workers in Queensland', *Australian Indigenous Law Reporter*, 2004 8 (3); L de Plevitz, 'Working for the man: wages lost to Queensland workers 'under the Act'', *Aboriginal Law Bulletin*, 2003 3 (81); Cristy Dieckmann, 'Calling In Debts. The Savings accounts and Wages Project – formerly known as the Aborigines Welfare Fund Project', *Indigenous Law Bulletin* 2001 5(2).

[2] Indigenous Law Centre (ILC), *'Eventually they get it all': Government Management of Aboriginal Trust Money in New South Wales*, Research Report, 2006; Public Interest Advocacy Centre (PIAC), *Submission to the Panel on the Aboriginal Trust Fund Reparation Scheme*, 2004; Ann McGrath, *Reconciling the Historical Accounts: Trust Funds Reparations & New South Wales Aborigines*, Research Report, 2004.

[3] See Ros Kidd *Hard Labour; Stolen Wages A National Report into Aboriginal Wages, Savings and Trust Funds*, forthcoming 2006.

[4] The Northern Territory was under the jurisdiction of New South Wales until 1863, South Australia until 1911 and the Commonwealth until 1978; the Australian Capital Territory was created in 1911 although some New South Wales' laws were applied to Aboriginal residents until 1954.

1.1 Controlling the labour market

Aboriginal workers formed an integral part of the early development of mainland Australian colonies; they were regularly employed on farms, stations and in the towns by the mid 1800s. From the earliest days it was common to retain women and children as servants by agreement or by force. From the 1830s as convict labour diminished in **New South Wales** the Commissioner for Crown Lands said that Aboriginal stock and station workers were essential to the survival of the industry. By the 1840s in **Victoria** several hundred Aboriginal men were working in rural industries as shepherds, potato harvesters, bullock drivers and at seasonal jobs; and around 500 Aboriginal people, one quarter of them women and girls, worked in the Swan River colony (**Perth**). In **South Australia** from the mid 1840s Aboriginal gangs reaped hundreds of acres of wheat, and by the 1850s shepherded up to 200,000 sheep.[5] In all the fledgling colonial towns Aboriginal people worked chopping wood, carting water, clearing land, trading game and skins, and as 'house boys' and domestics.

Most Aboriginal workers were paid in rations, tobacco or cast-off clothing, although some in New South Wales,[6] South Australia[7] and Victoria[8] were paid a full wage, being regarded as equal to, and in some cases superior to, white labour.[9] Reports stated many farms and stations in Victoria, New South Wales, Queensland and South Australia survived only because of their Aboriginal workers as white workers left for the gold rushes. During much of the nineteenth century it was a common refrain that remote stations in Queensland, Northern Territory, South Australia and Western Australia only survived because of their unpaid or underpaid Aboriginal workforce. By the 1880s in New South Wales it was estimated over 80 per cent of Aboriginal people were self-sufficient.[10]

Employers could keep possession of their Aboriginal workers by invoking mainstream employment laws although it appears these options were not greatly exercised. During drastic labour shortages in the early years in Darwin the Imperial *Masters and Servants Act (1823)* was applied to some Aboriginal servants; the penalty for absconding was two dozen lashes and/or imprisonment. These laws were also invoked in Queensland, Victoria, Western Australia and the Northern Territory to recapture and punish Aboriginal workers.[11]

The pastoral industry in Queensland, Western Australia, the Northern Territory, and to a lesser extent in South Australia, was built on the backs of Aboriginal labour. All colonial authorities were repeatedly notified of widespread abuses and exploitation of Aboriginal workers. By the turn of the century over 2000 Aboriginal people were in work in Queensland,[12] around 4000 in Western Australia,[13] and an unmeasured number in the Northern Territory.

In 1869 the **Victorian** government introduced employment controls through a system of work certificates and contracts, and regulations in 1871 allowed for Aboriginal wages to be paid directly to the local guardian. Neither **South Australia** nor **New South Wales** implemented employment safeguards in the early years; the latter's Aborigines Protection Board focused on reserves to 'provide asylum for the aged and sick' and to 'train and teach the young', primarily by processing children to work through the former missions. While the **Queensland** government mandated compulsory work agreements and permits in 1897 and limited minimum wages in 1901,[14] **Western Australia**'s legislation the same year continued the optional contracts introduced in 1886 (without set wage or term of service), and excluded Aboriginal workers from *Masters and Servants* laws, extending its maximum penalty of three-months' gaol for breach of contract to a five-year term and the option of a

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5 Richard Broome, 'Aboriginal workers on south-eastern frontiers', *Australian Historical Studies*, 26, 1994.
6 Heather Goodall, 'New South Wales' in Ann McGrath (ed), *Contested Ground*, Sydney, 1995, 70.
7 Christobel Mattingley (ed), *Survival in our Own Land*, Adelaide, 1988, 128.
8 Broome 1994, 217, citing George Mackaness (ed) *George Augustus Robinson's Journey into South-Eastern Australia, 1844 with George Henry Haydon's Narrative of the Same Journey*, Sydney 1941.
9 Broome 1994, 214; Goodall, 1995, 69.
10 Goodall 1995, 74.
11 Kidd, 1997, 34; Broome, 1994, 219; Anna Haebich *Broken Circles*, Fremantle, 2000, 210; Tony Austin, *I Can Picture the Old Home So Clearly*, Canberra, 1993, 35.
12 *Annual Report of the Chief Protector of Aboriginals* (Queensland) 1904.
13 C D Rowley, *The Destruction of Aboriginal Society*, Ringwood, 1986, 190.
14 Five shillings ($24 today) monthly, less than one-eighth the white wage.

whipping for absconding boys and men.[15] In the **Northern Territory**, despite a detailed Report to the South Australian government by the Government Resident in Darwin detailing the prevalence of kidnapping, assaults and slavery of Aboriginal women and brutal summary justice against men, the pastoral lobby successfully defeated an 1899 Bill which would have provided Aboriginal workers similar employment protections as the new Queensland law.[16]

In the absence of mandatory employment provisions, a 1904 Royal Commission into Aboriginal administration in **Western Australia** found Aboriginal groups were entirely at the mercy of station management: cruelty in the 'unsettled districts' was intolerable and police treatment of Aboriginal people 'brutal and outrageous'. Although most workers were not employed on contracts it was common practice to set the police to recapture absconders, including young child servants. Recommendations for a minimum five shilling monthly wage were successfully opposed by pastoralists, leading one parliamentarian to describe the current system as 'another name for slavery'.[17] Under the *Aborigines Act (1905)* the government introduced compulsory permits, but these might cover any number of workers and made no requirement for a cash wage, a provision rejected again in 1908.

Legislation in the **Northern Territory** in 1910 and 1911 implemented employment licences, revocable if wages or conditions were unsatisfactory, and directed wages owing to deceased workers be paid to the protector, who also had the right to demand any wage be paid direct to himself. Since no minimum wage was mandated most employers in the pastoral industry paid no cash component.[18] Although a minimum wage of twenty-five shillings weekly was set for government employees (in Darwin), ten per cent went straight into a trust account controlled by the government and the remainder could be paid in kind, rather than in cash.[19] Any general wages received by protectors were also lodged in a trust account to be spent 'solely on behalf of' the employee, a record to be kept of receipts and payments. From 1918 any Aboriginal female could be controlled for life and sent out to work. Minimum wages for town workers were five shillings weekly plus clothing and food, of which two shillings was paid direct to the trust account.[20] The government required rural employers to buy licences, but these allowed for unlimited workers who had only to be provided with food and clothing; wages and housing were optional if workers' dependants were also supported.

While the **South Australian** government had initiated employment legislation in the Northern Territory in 1910, its own *Aborigines Act (1911)* made no provisions to protect workers' rights, particularly in the remote pastoral areas, other than a prohibition against Aboriginal women wearing male clothing, a weak attempt to combat the common practice of using women for stock and station work. The government omitted any provision to licence employers or to direct the payment of wages to protectors.[21]

In **Victoria** Aboriginal people not living on government stations competed with white workers. By simply evicting from the stations all mixed-race persons under 34 years of age (under the 1886 *Protection Act*), and subsequently all mixed-race males over 18 years (under the 1910 *Aborigines* Act), the government destroyed the almost self-supporting stations, forcing more families into the wider community. In 1917 the government cut assistance except to station residents relocated at Lake Tyers, which was the only remaining staffed station after 1923. The **New South Wales** government used the *Aborigines Protection Act (1909)* to similarly restrict access to protected reserves to anyone deemed to have less than 'half' Aboriginal blood who was not in need of rations and assistance. In 1914 station managers were ordered to evict all mixed-race boys over 14 years and transfer all girls over 14 years to the Cootamundra Girls Home for employment training; in 1918 the law was further amended to allow the expulsion of all lighter-skinned families from the managed stations and missions.

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[15] Haebich 2000, 210.
[16] Stephen Gray, *The 'stolen wages' issue in the Northern Territory: a historical summary*, unpublished draft PhD chapter, 2006, 7.
[17] Anna Haebich, *For Their Own Good*, Perth, 1988, 81.
[18] Tony Austin, *Never Trust a Government Man*, Darwin, 1977.
[19] Austin 1993, 68.
[20] Austin 1993, 67.
[21] Rowley 1986, 219.

In **Queensland** the transfer of Aboriginal families onto managed missions and settlements intensified after 1914, although thousands of men, women and children were subsequently contracted into the workforce, their controlled earnings building steadily in trust accounts. From 1905 all women's wages were paid direct to the protector, except for a small pocket money portion; this applied to male wages after 1914. Wages owed to deceased workers, and those deemed 'unclaimed', were directed into the Aboriginal Protection of Property (APP) Account, set up in 1902. Regulations in 1919 set minimum standards and conditions, and pegged pastoral wages to 66 per cent the award rate. (Cut to only 41 per cent during the Depression, Aboriginal wages fell to a low of 31 per cent in 1949, and did not regain the 66 per cent parity until the early 1960s.)

Queensland's comprehensive system relied on local police to oversee employment conditions and handle Aboriginal access to savings. Inspections of stations rarely occurred unless there was specific direction to inquire or coincidental police business to cover the cost. In 1919 the chief protector conceded that children and the elderly continued to be exploited, and 'efficient care and protection are absolutely impossible'.[22] In 1921 he reported shelter for many workers was 'worse than they would provide for their pet horse, motor-car or prize cattle.'

In 1916 the chief protector admitted the 'grave danger' to girls and women sent to work on remote stations and *Annual Reports* list pregnancies and appallingly high neonatal mortality rates, testament to the harsh conditions endured by the girls who were often forced to do men's work. Yet domestic employment remained a key plank in the government's 'protection' strategy into the late 1960s, because of the financial benefits of high demand, accumulated controlled wages, and savings on settlement costs. Expectant mothers were returned to the settlements to give birth and many were subsequently contracted out again, their babies retained in the dormitories or sent with them at lower wages.

By the early 1940s the Queensland government controlled almost 2500 contracted workers plus a further 2800 in the pastoral industry. Yet workers struggled in poverty. Despite countless warnings the government never fixed the malfunctioning pocket money system. An investigation into the department in 1932 said it could be 'reasonably assumed' workers were cheated of their pocket money; in 1943 protectors described the system as a farce; in 1956 they reported it was useless, futile and out of control with workers 'entirely at the mercy' of employers who simply doctored the books. The department rejected auditors recommendations to tighten the system as 'too costly', and admitted in the 1960s pocket money was probably not paid 'in many instances'. The system continued unchanged until 1968. Effectively, during a sixty-year period, potentially half the wages of the workforce of between 3000 and 5000 was lost through entrenched official negligence.

In the late 1950s the department's rural officer reported most graziers were 'more concerned with obtaining Aboriginal labour as cheaply as possible than with paying wages in terms of the real worth'; that fewer white stockmen took work in remote areas and 'white men of markedly less ability and industry [are] receiving higher wages and better living conditions than Aboriginals who are better workmen.' Against six decades of contrary evidence the United Graziers' Association (UGA) alleged in 1964 'practically all Aboriginals' came under the longstanding 'slow worker' category where people 'agreed' with a protector that their skills were limited and their pay discounted up to 40 per cent. With department support the UGA defeated a proposal that an industrial magistrate assess Aboriginal ability, the director falsely claiming rates for the 5500 pastoral workers were 'determined by the Industrial Court' and were not 'an arbitrary decision by a Government or a Department.' This of course was untrue: Aboriginal pastoral wages had been excepted from the industrial courts since 1919, and were, as auditors had observed in 1943, largely 'at the discretion of the Director.' Not until 1968, under a federal ruling, were Aboriginal pastoral workers accorded equal wages, although the slow worker clause was maintained.[23] The contract employment regime ceased in 1972.

In the **Northern Territory** lack of intervention by the Commonwealth government allowed exploitation to continue. Stations commonly undercounted worker numbers and inflated the quantity

[22] Queensland Parliamentary Papers, *Annual Report of the Aboriginal Department*, 1919-20.
[23] Commonwealth Department of Aboriginal Affairs, 'Report of the Committee to Review the Situation of Aborigines on Pastoral Properties in the Northern Territory', December 1971. (Copy in author's possession.)

and quality of rations supplied; in 1927 pastoralists estimated they spent half as much on an Aboriginal employee as they did on a white worker.[24] A 1929 Report[25] found the pastoral industry was 'absolutely dependent on the blacks for the labour' and 'most of the holdings ... would have to be abandoned' without them. Yet the 2500 Aboriginal workers and 1500 'camp dependants' on the stations were forced to suffer in shelter cobbled together from waste materials, 'mere kennels and most unsanitary'. The Report revealed managers withheld rations to enforce discipline and some stations refused to supply rations to non-workers, leaving families to survive on the offal of beasts killed for station supplies and forcing many women into prostitution to feed their children. Regulations in 1930 set a minimum wage for half-caste[26] youths 'apprenticed' to pastoral work from the government's institutions,[27] much of it paid direct to the department's trust account. Wages of up to 30 shillings ($74)[28] weekly were set for drovers but many pastoralists refused to pay and none were prosecuted.[29] The chief protector said contracted employment in central Australia was 'analogous to slavery' because the regulations were not enforced. In 1933 he described many station managers in the Northern Territory as 'unscrupulous' in their exploitation of Aboriginal workers, and police as 'unreliable' in setting wages.

Records shows the Commonwealth government failed to intervene despite knowledge of starvation and deaths among workers and their families. In 1934 the government was notified that on one station ex-workers were starving to death, but it refused to supply rations arguing this was the responsibility of station management.[30] In 1938 anthropologist W E H Stanner again reported workers and dependants on several stations were at high risk of diseases caused by deficient diets; he said on one station only ten children survived from 51 births between 1925-1929.[31] In 1942 a patrol officer reported at one station workers 'finished in a state of exhaustion due to the hard labour on the diet of flour only', there was 'not a vestige of food' in the camp of twelve women in 'wretched' emaciated condition who fell upon a piece of unleavened damper 'like starving dogs'. He cancelled the employer's licence, but was overruled by his Canberra superiors who laid no charges against the owner.[32] In the mid-1940s a survey[33] reported all ration recipients were forced to labour, including the aged, women and children; and many stations in the central-west ruled their workers through violence and fear.[34] The survey confirmed endemic malnutrition was endemic and excessive maternal and infant deaths were 'destroying the race'; of four births at Wave Hill during a two-month period three of the babies and two of the mothers died.[35]

In 1947 Aboriginal workers in Darwin went on strike, demanding full wages and full access to their wages and savings. Despite further strikes in 1948, 1950 and 1951 the minister for the Interior refused to intercede in the operations of the *Aboriginals Ordinance*.[36] Although the *Welfare Ordinance (1953)* exempted all half-castes from employment and financial controls the government could declare anyone a ward in need of assistance, a category automatically including around 15,700 'full blood' people on the grounds they had no voting rights. Under the *Wards Employment Ordinance (1953)* male wages doubled to £2 ($80.80) weekly plus rations and clothing; but as the major employers of half-caste wards, neither the missions nor the Welfare Branch were bound to comply with the new

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[24] Ann McGrath, *Born in the Cattle*, Sydney, 1987, 139.

[25] Commonwealth Parliamentary Papers 1929 (II), J W Bleakley, Aboriginals and Half-Castes of Central Australia and North Australia.

[26] This is an insulting term referring to those of mixed race, but for accuracy I will use the terminology of the times. Half-caste was defined in 1897 as the offspring of an Aboriginal mother and non-Aboriginal father.

[27] Between 19 shillings and 6 pence and 34 shillings and 6 pence.

[28] Conversions in the text are obtained by using the following methodology. Using the Retail Price index numbers: divide today's rate by the target year rate, multiply by the amount in pounds and multiply by two to convert to dollars if appropriate. This gives an approximate equivalent in today's value; it does not allow for lost opportunity in the denial of funds over succeeding years. While all care has been taken, the author accepts responsibility for any errors.

[29] McGrath 1987, 138.

[30] Andrew Markus, *Governing Savages*, Darwin, 1990, 95, 63.

[31] Markus 1990, 64.

[32] Markus 1990, 20-1.

[33] RM and CH Berndt, Aboriginal Labour in a Pastoral Area, 1946, cited in Rowley, 1986, 334.

[34] Markus 1990, 61.

[35] Markus 1990, 65.

[36] Gray 2006, 17.

provisions.[37] Wages for wards rose to three pounds ten shillings in 1957, part-paid direct to the trust fund.

It was not until 1953 that minimum wages and conditions were specified for Northern Territory pastoral workers, but the wage was one-fifth the white rate, annual leave was half, and the range of rations less than 35 per cent the minimum requirements for white workers.[38] There were 6000 Aboriginal people reliant on pastoral work for their survival, yet between 1959-64 not one cattle station was prosecuted for failing to comply with mandatory wages, shelter, rations and work conditions.[39] Skilled Aboriginal stockmen of many years experience were still getting only £1 plus keep in 1961, compared with £14 for their white counterparts.[40] In 1965, when 51 per cent of general station hands were paid around one-quarter the white rate and 34 per cent around one-third, the director admitted only 20 stations had even attempted to meet their legal employment requirements.[41] Aboriginal drovers were similarly underpaid.[42] Mass walk-offs at Newcastle Waters and Wave Hill were the culmination of protests during the previous twenty years. When equal wages were finally implemented the 'slow worker' clause legitimised continuing under payment.[43] Minimum wages in the early 1970s, including clothing, were less than half the unemployment benefit.[44]

In the absence of employment protection in **South Australia** the Northern Territory chief protector Herbert Basedow said in 1927 that pastoral workers 'are kept in a servitude that is nothing short of slavery'.[45] In the 1930s Dr Charles Duguid reported that cruelty against Aboriginal workers was common practice, with many 'breaking in' their workers as though they were 'taming wild animals'.[46] The Newcastle protector stated that most stockmen's wage did not even cover the debts charged against them in station stores. The missionary at Oodnadatta said in 1939 workers got only 'what their employers care to give them' and without legal safeguards workers could only walk off unpaid or continue to endure exploitation. From Ernabella the missionary warned some pastoralists were so abusive they should be banned from employing Aboriginal labour.[47] Yet the South Australian government introduced no employment safeguards in the *Aborigines Act Amendment Act (1939)*, but widened government controls to include all persons of Aboriginal descent and continued management provisions over Aboriginal property and finances. Records for the early 1940s show the Board was told several times of gross cruelties but declined to act stating it had no authority to prohibit the hiring of Aboriginal labour.[48] In urban areas equal wages theoretically applied.

In 1947 a weekly wage of £1 ($40.40) was suggested for pastoral workers, to be controlled through the Board's special trust accounts. Lack of official scrutiny enabled overcharging of goods against workers who were paid, many stations thus paying no wages for months at a time. In 1950 police in the eastern border region reported many small holdings only survived because they paid little or no wage to their Aboriginal workforce.[49] This exploitation continued after the introduction of equal wages in the late 1960s.

In 1918 there was still no minimum wage for the Aboriginal workforce in the Kimberley region of **Western Australia** which numbered almost 2300. In the period 1916-1928 pastoralists successfully defeated five attempts to impose minimum wages, on the grounds the department would have too much power to interfere in their affairs.[50] The chief protector described the system in the north as

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37 Haebich 2000, 463.
38 Peter Read, 'Northern Territory', McGrath 1995, 288.
39 Sue Taffe, *Black and White Together*, St Lucia, 2005, 153.
40 Taffe, 2005, 65.
41 Read 1995, 288.
42 Taffe 2005, 149.
43 Commonwealth Department of Aboriginal Affairs, 'Report of the Committee to Review the Situation of Aborigines on Pastoral Properties in the Northern Territory', December 1971. (Copy in author's possession.)
44 Rowley 1986, 348.
45 House of Assembly Debates, South Australia, 1927 (1) 332.
46 Markus 1990, 61.
47 Cameron Raynes, *The Last Protector: the removal of Aboriginal children from their parents in South Australia under W R Penhall, 1939-1953*, unpublished ms, 2004, 63.
48 Raynes 2006, further research, GRG 52/1/1940/25A, GRG 52/1/1945/78.
49 Cameron Raynes, *'A Little Flour and a Few Blankets'*, State Records of South Australia, Adelaide, 2002, 53.
50 Jebb 2002, 78.

like 'semi-slavery' given the coercion, if not outright cruelty, of many employers.[51] A single travelling inspector operated from 1924-1929, checking very few stations, and in 1935 the government was told the Act was impossible to police in the Kimberley north of the Ranges. Continued failure to check work conditions made a mockery of requirements under the *Native Administration Act (1936)* to provide sanitation, suitable food and water, blankets and clothing. Indeed the minister appointed to oversee this law had led the pastoral lobby since 1924 and declared its provisions would only be applied 'if circumstances required it'.[52] The 1936 Act extended government controls over Aboriginals of mixed-race in the south, intensifying transfer of families to reserves where children were separated into dormitories for training and employment. Control of private earnings and property continued.

Although limited wages and conditions were introduced in 1944 under the State Farmworkers award, this applied only to workers in the south-west.[53] Despite submissions in 1944 to the Commonwealth Arbitration and Conciliation Commission detailing the many responsible positions filled by unpaid pastoral workers in the north, 'full-blood' station workers were again excluded from the Pastoral Industry award.[54] In May 1946 800 people walked off the stations in protest, many for over two years.[55] In 1948 the Bateman Royal Commission acknowledged the pastoral industry was 'almost entirely dependent on native labour' and recommended a small cash wage paid as credits through station stores.[56] Discrediting pastoralists' claims that Aboriginal workers were too primitive to understand money the local protector in 1949 questioned how 'a lot of unintelligent people could completely run sheep and cattle stations as they are doing throughout the Kimberleys'.[57] Despite severe shortages of white labour in 1950 Aboriginal stockmen were still paid only £2 ($61) weekly (one quarter the white rate), and most were 'in debt' to station stores. Under an informal agreement with the department, pastoralists paid monthly pocket money of £1 ($30.50) to drovers and half that to women and other workers.

The *Native Welfare Act (1954)* removed many labour restrictions and freed workers from permit controls. Only now were managers obliged to keep records of goods sold in lieu of wages, although the department's officer reported that many large stations had cut free rations, reducing workers to the status of slaves. In 1956 the commissioner for Native Affairs complained employers were encouraged by the 'lack of legislative backing' to evade instructions to improve workers' conditions.[58] In the early 1960s, when demand for pastoral workers in the Kimberley exceeded supply, many workers moved to the towns. Historian Mary Ann Jebb's research shows the availability of pensions provided a significant alternative from the slavery of pastoral work. From the 1969 season the national Pastoral Industry award applied in the Kimberley, but only for union members and 'full-blood' persons holding a certificate of citizenship; in 1970 only around 50 per cent of Aboriginal workers were paid equal wages, the department claiming it had no jurisdiction over the hundreds of workers paid discounted rates under the 'slow worker' tag.[59] Only after 1972 were all Kimberley Aboriginals free from department controls, although many stations refused to pay full wages to non-union labour.

By the 1930s the southern states of New South Wales and **Victoria** had curtailed occupancy on state-managed stations, leaving Aboriginal people to compete 'equally' in communities rife with racial discrimination. Claims by the Victorian minister in 1937 that his state had already 'solved the problem' of Aboriginal disadvantagement[60] were belied by a 1955 inquiry which found that only people living on the stations at Framlingham and Lake Tyers had reasonable housing; most of the 1346 Aboriginal Victorians lived in squalid conditions, their lack of jobs and education and their poor health due largely to white prejudice.[61] The *Aborigines Affairs Act (1967)* promoted greater assimilation.

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51 Mary Ann Jebb, *Blood, Sweat and Welfare*, Perth, 2002, 133.
52 Jebb 2002, 158.
53 Jebb 2002, 165.
54 Jebb 2002, 164.
55 Jebb 2002, 207.
56 Jebb 2002, 210
57 Jebb 2002, 219.
58 Jebb 2002, 243.
59 Jebb 2002, 288.
60 Haebich 2000, 168.
61 Richard Broome, 'Victoria', in McGrath 1995, 149

Where Victoria controlled employment and finances only of child wards and station occupants, the **New South Wales** *Aborigines Protection (Amendment) Act (1936)* allowed the Board to take direct control of the wages of any working Aboriginal; the money to be spent solely on behalf of the wage earner and accounts to be kept of all payments. By 1948 an estimated 96 per cent of Aboriginal men were employed, and only 21 per cent of Aboriginal people lived on the government stations.[62] The *Aborigines Protection (Amendment) Act (1963)* terminated official control of adult wages in New South Wales.

1.2 Child labour

Records reveal that the kidnapping of Aboriginal children for servitude was a common practice in the Australian colonies from the earliest years.[63] Many authorities deplored the practice, although the contemporary justification was that children were being 'rescued' and trained for a 'better' life. Missions and schools to train children, like the Native Institution established in 1814 in New South Wales 'to civilise, educate and foster habits of industry and decency in the Aborigines', commenced in Victoria (1836), Queensland (1838), Western Australia (1839) and South Australia (1952); in Tasmania children were sent to Hobart's Orphan School, started in 1817. Most of these early attempts failed as parents reclaimed their children, realising the intent to alienate them from family and culture.

During the nineteenth century the colonies introduced legislation to override parental discretion. In **Western Australia** a law was passed in 1844 'to prevent the enticing away of girls of the Aboriginal race' from school or indentured service. The same year a law was passed in **South Australia**, and thereby also the **Northern Territory**, 'for the Protection, Maintenance, and Upbringing of Orphans and other Destitute Children and Aborigines'. The protector was declared legal guardian of any child of Aboriginal descent whose parents were dead or unknown and children could be sent to work until the age of 21 years. Guardianship could extend over any Aboriginal child with consent of one parent, a very uncertain safeguard given contemporary power relations.

Aboriginal infants and children were also arrested, institutionalised and indentured to service under mainstream legislation such as the *Neglected and Criminal Children's Act (1864)* in Victoria and the *Industrial and Reformatory Schools Act (1865)* in Queensland; indeed 'any child born of an Aboriginal or half-caste mother' was subject to the latter Act. Under these laws, and the subsequent *Industrial Schools Act (1867)* in Tasmania, the *Industrial Schools Act (1874)* in Western Australia, the *Destitute Persons Act (1881)* in South Australia and the Northern Territory, and the *State Children Relief Act (1881)* in New South Wales, Aboriginal children were critically vulnerable to removal under definitions of 'neglect' which included wandering, sleeping in the open, being without visible means of support or having no fixed abode.

Children were taken from as young as a few months old and institutionalised in Homes (if lighter skinned) or in mission or settlement dormitories. Here they might be taught the rudiments of reading and writing, but more crucially the habits of labour – washing, cooking, cleaning, sewing, milking, labouring and farming – before being contracted to work for European families until the legal age of maturity, generally 18 or 21 years. During the nineteenth century many children were indentured at less than 10 years of age, some for periods of up to a decade, although the minimum age during the twentieth century was usually around 14 years. Although indentured child workers were commonly termed apprentices, there was no requirement for formal training and records reveal lives of unremitting drudgery, exposure to sexual and physical abuse and despairing loneliness. The government took direct control of the wages of all indentured children, whether contracted to work under Aboriginal or mainstream legislation (see *Trust Funds* below).

By 1911 all mainland states had enacted laws targeting Aboriginal people, giving authorities control of the care, custody, maintenance and education of Aboriginal children.[64] While children controlled

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[62] Goodall 1995, 89.

[63] Haebich 2000, 81; Broome 1994, 213.

[64] The *Aborigines Protection Act (1869)* in Victoria, the *Aborigines Act (1886)* in Western Australia, the *Aboriginals Protection and Restriction of the Sale of Opium Act (1897)* in Queensland, the *Aborigines Protection*

under mainstream education were legally free from the age of 18 or 21 years, children controlled under Aboriginal legislation, as was predominately the case in Queensland, Western Australia and the Northern Territory, were controlled for life unless, as was rarely the case, they won an exemption as adults.

Contemporary terminology reveals the states and Territory ran concerted programs to remove children and process them to work which reflected official policy rather than individual circumstances. In **Victoria** the Aborigines Protection Board reported in 1875 that 'the children are being removed one by one and sent to the stations'; regulations in 1880 allowed for the removal of any Aboriginal child 'deemed' to be neglected, for employment training, and after 1886 Aboriginal children could be indentured from the age of 13 years.[65] In 1909 police in **Western Australia** were empowered to summarily remove all mixed-descent children over eight years of age in the Kimberley, the girls to be trained as domestics and the boys as farm workers.[66] Government stations at Carrolup and Moore River operated to train and indenture children in the south. After 1909 **South Australia** initiated a campaign to collect 'all wandering half-caste children'; police listed 766 children exclusive of the Northern Territory and records show intensified removals of children between one and seven years old by 1911, particularly for girls.[67]

From 1883 the Aborigines Protection Board of **New South Wales** followed an aggressive policy to remove children into state control, using persuasion, threats and the withholding of rations to secure parental consent.[68] By 1909, when consent was no longer required, 300 children had been processed through Warangesda alone. Regulations in 1916 directed all girls over 14 years be 'sent to service', although records show many were indentured at only 11 or 12 years of age.[69] Under an Amending Act in 1915 children were removed 'for being Aboriginal' or 'for being 14 years' or 'to be sent to service'; there was no minimum age for servitude and children who refused employment could be sent to training homes and indentured from there.[70] Kinchela boys home opened in 1918 and over 400 boys had been through it to work when it closed in 1970.[71] Children who rebelled or absconded were arrested and either returned to the same employment or institutionalised. One study of child servants in New South Wales[72] suggested around 70 per cent of girl servants suffered this fate with some sent to Parramatta Girls School, to Long Bay Gaol or to convents; around one in twenty wards were committed in mental institutions.

From **Darwin** the Government Resident recommended in 1907 that all mixed-descent children be institutionalised for indenture to white families, and the Kahlin compound was started in 1912 to supply servants to Darwin families. The Bungalow began in 1914 in Alice Springs with the aim of taking children from the camps and training them for work. From 1931 it was government policy to institutionalise all 'illegitimate'[73] mixed-descent children under 16 years, as well as unmarried women, increasing removals 70 per cent during that decade[74]. Girls were frequently contracted from the Bungalow to work around Adelaide. After the Second World War patrol officers were told to remove all mixed-descent children to institutions and by the early 1950s almost all had been sent to missions or government institutions.[75]

In **Queensland** children were indentured to work from government settlements from 1897 to around 1970, although few missions put the children at such risk. Boys were sent to farm work and pastoral stations, and girls to fill the insatiable demand for domestic servants, often in remote areas. As in the Northern Territory and Western Australia, however, the government frequently left 'full-blood' boys on

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Act (1909) in New South Wales, the *Northern Territory Aborigines Act (SA) (1910)* in the Northern Territory and the *Aborigines Act (1911)* in South Australia.

65 Human Rights and Equal Opportunity Commission (HREOC), Bringing Them Home, National Inquiry into the Separation of Aboriginal and Torres Strait Islander children from their families,1997, 58

66 Haebich 2000, 243.

67 Raynes 2004, 99.

68 HREOC,1997, 40.

69 Inara Walden, 'To Send her to Service', *Indigenous Law Bulletin*, 1995, Vol 3, No 76, endnote 24.

70 Public Interest Advocacy Centre (PIAC), *Submission to the Panel on the Aboriginal Trust Fund Reparation Scheme*, September 2004, 9.

71 http://www.dreamtime.net.au/indigenous/family.cfm

72 Walden 1995, 3.

73 Tribal marriages were not recognised as legitimate.

74 Haebich 2000, 194.

75 HREOC,1997, 142.

the stations, many less than ten years of age, reasoning that they were already instructed in labouring and the stations would suffer without their input. Child labour was a standard component of the pastoral industry, particularly in remote areas where pastoralists regarded children as a valuable resource. The **Western Australian** commissioner of Native Affairs stated in 1939 he had no idea how many part-descent children were worked on Kimberley stations because pastoralists refused to bring them to government attention.[76] In **Queensland** it was legal to contract children under 12 years work with the chief protector/director's approval; in 1957 the director admitted there was still 'a fair amount' of child labour in the pastoral industry with many suffering injuries and broken limbs. Rather than banning the practice he reminded the pastoral lobby: 'We try to look on these people as human beings ... Nobody is going to put his own child out too young and we have to think of that with these people.'[77]

It is clear child removals reflected labour market demands. In the twenty years from 1932 60 per cent of children institutionalised in **Alice Springs** were boys trained for pastoral work, whereas 70 per cent of children institutionalised in **Darwin** were girls trained for domestic service. Girls from both Darwin and Alice Springs were sent interstate, particularly to meet demand in Adelaide. Between 1943-1972 350 girls were processed through Colebrook Home in **South Australia** to domestic service. In **New South Wales** over 80 per cent of children removed before 1921 were girls, 70 per cent of the 1600 children taken from their parents between 1912-1938 were girls, some as young as seven years, who were trained for the domestic service market.[78] Under Board directives children from New South Wales were sent to the ACT and the Northern Territory and children from both areas apprenticed or fostered in New South Wales.

One **New South Wales** register of wards dated 1916-28 contains 800 removal forms, 570 for girls working for over 1200 employers in city and country areas.[79] The Board failed to supervise their conditions or treatment despite frequent reports of physical and sexual abuse; pregnancies were common, the babies routinely adopted to white families.[80] As a witness to a 1937 Select Committee Inquiry attested, the girls were 'easy marks', including those who entered sexual relationships in good faith. The **Queensland** government also exploited the high demand for domestic servants, departmental *Annual Reports* frequently noting it could not keep up supply. As in other states and the Territory, inspections of work conditions were too infrequent to provide protection. Reports from rural protectors warned girls were put to men's work and many children suffered physical and sexual abuse, the chief protector stating in 1916 this was a 'grave danger' of current employment practices. In 1934 the chief protector deemed the value of the 'moral welfare' of domestics contracted out from the Cherbourg settlement was less important than the £1460 in lost wages and £1938 in extra costs to keep them at the settlement.[81] So the practice continued.

In **Western Australia** young girls contracted to work were also exposed to sexual assault; in 1921 30 girls returned pregnant to Moore River. Mothers were sent back into the workforce after two years, their children taken from them,[82] the lighter-skinned babies processed through Sister Kate's Quarter Caste Children's Home which opened in 1933. In the three years to 1935 there were 12 pregnancies and eight cases of gonorrhoea among girls contracted to work from Alice Springs.[83] The policy of sending girls to Adelaide as servants was discontinued in the late 1930s, although there were abortive attempts to send girls to Canberra in 1937.[84]

Many child wards were retained in contracted work without legal authority. It was only after concerted political pressure from Aboriginal activist groups in **New South Wales** that the Board allowed child apprentices to return to their communities after their term of indenture after 1921,

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76 Jebb 2002, 164.
77 QSA TR1227:258 23.1.57 – deputation from United Graziers Association (UGA) to minister and director.
78 Doreen Mellor and Anna Haebich, *Many Voices. Reflections on experiences of Indigenous Child Separation*, National Library of Australia, 2002, 254.
79 Walden 1995, 2.
80 HREOC 1997, 44.
81 Queensland State Archives, A/69584 30 November 1934.
82 Haebich 2000, 281.
83 Austin 1993, 173.
84 Austin 1993, 187.

although many had no idea of their right to do so and continued their servitude for many years.[85] Research into domestic employment in **South Australia** suggests missions exploited girls to gain access to their earnings, at times controlling them through contracts which they knew had no legal status and occasionally invoking departmental pressure to force their compliance. The chief protector knew women were being contracted from Koonibba mission in the 1940s long after they were 18 years old. After one woman demanded release of her 30-year-old sister from Koonibba the chief protector conceded only that she could have a one month holiday. Controlling women after they turned 18 was known at Koonibba as the '21 rule'.[86]

In the Northern Territory, Western Australia and Queensland there was no age limit to the enforced contracting regime.

2. Trust funds

In controlling Aboriginal employment and earnings governments amassed trust funds from private income, including deceased estates due to family members. Over time these funds were used also to benefit consolidated revenue. This was particularly the case for entitlements such as endowment and pensions (see *3* below).

2.1 Queensland

There are three main components of trust fund management in Queensland:[87] handling of private accounts by protectors; diversion of bulk private savings to investment; government operations of three trust funds accumulated partly or wholly from private earnings – the Aboriginal Protection of Property (APP) Account, the Aboriginal Provident Fund (APF) and the Aborigines Welfare Fund (AWF).

2.1.1 Protectors

Except for a small amount of pocket money all women's wages were paid direct to protectors from 1905 and all men's wages from 1914. Withdrawals could only be made with the protector's permission. Thumb-printing of withdrawals was suggested in 1904 to lessen frauds by protectors and employers. In 1919 police fraud was debated in parliament and in 1921 and thumb-printing was made mandatory 'as a further safeguard' to minimise police fraud and all dockets had to be witnessed by a disinterested third party. Although a Public Service report on the department in 1923 found that almost half the deductions by protectors were inaccurate, but the department disregarded the recommendation that Aboriginal people be given the right to appeal against dubious handling of their accounts.[88]

Head office did not verify wages earned or deductions made and an investigation in 1932[89] said that 'supervision exercised by the chief protector over the natives' banking transactions is totally inadequate'. Theft was described as common, the receipts doctored in small amounts 'spread less noticeably over numerous withdrawals'. The investigators warned: 'As the native could not, in many instances, check his own earnings and spendings, the opportunity for fraud existed to a greater extent than with any other governmental accounts'. The chief protector conceded that many police 'are not trained in clerical work' and resented the unpaid duties. He said his department had no system to 'ensure the necessary control' over police protectors (then in control of almost $240,000 – $13.9 million). He admitted the frequent pilfering from Aboriginal accounts by altering receipts over long periods was in part due to 'the long times between inspections', and he agreed that 'the inability of the native to check his own earnings and spendings leaves the way too open to dishonesty.'[90] But he still denied account holders the right to check their accounts and he did not implement additional audit inspections to supervise police dealings.

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85 ILC 2006, 16.
86 Raynes 2004, 184, 188.
87 Further references for Queensland trust fund management are detailed in Kidd, *Trustees on Trial* (September 2006).
88 QSA TR1227:128 15.2.23 *Report on the Office of The Chief Protector of Aboriginals*.
89 QSA A/58856 9.11.32 *Report on Chief Protector of Aboriginals Office.*
90 QSA A/58856 24.8.32.

In 1933 the government centralised control of all Aboriginal savings in Brisbane, an amount then totalling £258,596 (almost $15 million), leaving only a working residue under supervision of local protectors. The undersecretary stated: 'This will go a long way to minimise fraud by members of the Police Force who are Protectors.'[91] But no measures were implemented to check the daily dealings of protectors, and frauds continued.

Successive audit reports during the 1940s detailed continuing negligence relating to the protectors' handling of savings accounts. In 1940 it was reported 'there has been no system of internal check operating in respect of the collections and bankings.' Protectors 'obviously do not exercise any check over the legibility' either from storekeepers or employers' and local stores were so careless in obtaining thumb print endorsement for purchases that these could not be verified. Auditors stressed that these endorsements were 'the only valuable evidence that expenditure is correctly chargeable against individual accounts', yet head office policy was to check only one in every three months' expenditure against identification cards; auditors said even this limited procedure was well in arrears.

Auditors reported that dockets were presented by protectors that bore witnessing to thumb prints where no thumbprints appeared; they reported receipts that bore signatures of witness to both the delivery of goods and the endorsement by the recipient although no worker's imprint was present. Storekeepers 'consistently' acted as the independent witnesses to workers' endorsement on goods purchased in their own stores; protectors likewise wrongly witnessed endorsements of transactions organised by themselves.

In 1944 auditors noted that the director of Native Affairs 'relies upon the integrity of the Protectors', although it was 'obvious that some protectors are not carrying out their duties as instructed'. They cited practices such as getting thumbprints from account holders 'before he is either paid or receives the goods that he has to pay for'.

In 1965 another public service inspection[92] outlined the same failures to protect Aboriginal accounts from fraud. Although thumbprints were now checked by the Criminal Investigations Branch in Brisbane, no specimen signatures were registered against which to check the veracity of the many 'signed' receipts. And the audit inspector concluded there was still no way to be certain 'that witnesses do, in fact, witness all payments'. Weighing the expense of a centralised signature register against 'potential loss by fraud', the department introduced only sample checking. The inspector said the issuing of passbooks to account holders, planned for early 1966, would not safeguard all accounts.

In their report for 1967 the inspectors anticipated the pass-books 'should improve security to some extent', although they conceded 'It will probably be some years before pass-books in the hands of semi-literate offer sufficient protection.' Meanwhile, it was stated, 'all accounting systems' operated as before.[93] Auditors again referred to the lack of security for signatures, noting 'withdrawals are purportedly witnessed' at the time of payment; again they urged specimen signatures be collated for all account holders.

In 1967 auditors criticised the 'unsatisfactory' operation on Aboriginal wages cards at head office. Forged withdrawals over a two-year period in one district amounted to $4000, facilitated by the 'breakdown in internal control procedures' where withdrawals were witnessed in bulk at a later date instead of at the time of payment. No proper check were made of withdrawals, acquittances and allocation of interest, for all of which it was stated: 'There is room for fraud'.[94] Auditors in 1970 stated that few signatures had been checked in the previous six months, and 'other necessary reviews are being deferred'. The auditor called for 'urgent action...to ensure the vital checks are carried out' shortly after transactions took place, 'so that the chance of forgery, etc, as has happened in the past, can be avoided, or deterred.' Among other procedural failures, he stated that 'the witnessing procedure is weak'.[95]

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91 QSA TR1227:129 14.11.33.
92 QSA TR 1320/1 Box 518:1781M 22.11.65 *Report on the Head Office, Sub-Department of Native Affairs.*
93 *Audit Report* 1967/68.
94 QSA TR1320/1 Box 530:1819M 19.4.67 – Organisation of the Department of Aboriginal and Islander Affairs.
95 QSA TR1821:385 *Audit Report* 1969/70.

Only after 1971 could individuals formally request the government stop management of their account. Auditors in 1974 complained that 'established checking procedures have been allowed to lapse' although the department still managed hundreds of accounts.

2.1.2 Bulk savings

It is beyond dispute that the majority of departmental wards lived in abject poverty and destitution, subject to such sickness and hardship that children were routinely refused entry to white schools. Yet many workers had considerable bank balances of which they were unaware because of the policy of departmental secrecy, and the files amply demonstrate that withdrawals from personal savings were strictly policed and often denied. The denial of knowledge, and denial of access, to their savings cost workers dearly.

In 1933 Aboriginal savings totalled £269,000 ($16.22 million) when the Queensland Aboriginals Account (QAA) was set up at Treasury as a 'common fund' in the name of the chief protector; £200,000, or 78 per cent of private savings, was promptly invested in inscribed stock, adding to £12,000 already diverted to investments from savings of settlement residents. In theory interest at bank rates was returned to the savings accounts, and publicly the government denied it would use the interest surplus for 'administration or maintenance' liabilities'. But in 1934 the chief protector admitted 'it is impossible to state for what particular purpose the interest has been allocated'.[96] In 1935 he admitted that Aboriginal account holders 'have not either individually or collectively consented' to the interest seizure.[97]

By 1936/37 the government increased the amount of private savings transferred to investments, leaving only £20,000 'to meet all possible contingencies', effectively less than $200 (today) for each of the 5785 account holders. In October 1938 the minister told parliament the government had gained almost £50,000 ($2.67 million) in interest between 1932 and 1938, returning interest at bank rates to account holders in the first year. In 1938 it was decided £17,000 ($155 per account holder) would constitute a 'satisfactory working balance' in QAA to enable a loan of £5500 to shore up Aboriginal Industries after the collapse of the marine produce market in the Torres Strait. The 88 per cent of savings frozen in investments and loans[98] gives the lie to Bleakley's assertion in 1939 that 'every worker's savings are definitely his own property . . . always available even to the last penny at the demand of the owner'.

In the early 1940s the government was still taking bank interest of £6882 ($303,000) annually from the 90 per cent of accounts with monthly balances over £50 ($2200). The 1941 inquiry had condemned this practice but it was not until 1943 that the government credited all savings accounts with the annual 2 per cent bank interest, transferring the investment bonus into the Welfare Fund. To maximise investment revenue, the government again reduced funds available to country workers to £20,000, or only 7 per cent of their total savings. On occasions the department retained control of the savings of exempted persons or simply failed to locate relevant files, particularly where the bank balance was large. Auditors in 1943 condemned the practice as having 'no authority under the Act' where exemptions were unconditional.

In late 1954, asserting rural savings balances were again 'far in excess of normal requirements', the government transferred an additional £40,000 ($831,200) for investment in something 'more lucrative'. This brought investments of these savings alone to £463,000 ($9.4 million) paying a bonus of £9260 ($188,000) to the Welfare Fund. And left available to rural account holders less than 9 per cent of their savings

In 1956 the government amended the 1945 regulations so that bulk private savings could be offered to a wider market, principally for expansion projects of rural hospitals, the interest bonus paid into the Aboriginal Welfare Fund. By 1958 only 13 per cent of total rural savings totalling £663,218 ($12.2 million) was available to account holders, the remainder invested to earn £8800 ($161,744) for the Welfare Fund. Hospital investments comprised £320,000 ($5.9 million).

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[96] QSA A/69470 18.9.34

[97] 26 March 1935, QSA A/69470.

[98] *Annual Report* (1938): £204,000 in Commonwealth stock plus £9000 in loans from savings total of £242,574.

Early in 1961 even the 'cash balance' of savings and trust funds was invested on the short-term money market to attract interest while still being available on daily call.[99] A maturing £100,000 ($1.7 million) of private savings went on the short-term market. By 1962 the government's investment portfolio of private savings stood at over £670,000 ($11.4 million), the £560,227 ($9.5 million) invested in regional hospital expansion projects, presenting a stark contrast to the £157,000 committed annually to run the sub-standard hospitals on the settlements and Thursday Island. In 1962 news leaked of a £100,000 loan to the Redcliffe Hospital Board prompting MLA Colin Bennett to say it was 'hard to conceive' that such an amount would be diverted to investment given entrenched Aboriginal poverty.[100] In fact the 1962 *Annual Report* shows over £685,000 was invested from the savings of rural account holders alone, leaving them over £34,000 in *debit* which surely affected the possibility of personal withdrawals.

The *Aborigines Affairs Act (1965)* omitted the provision for the director to invest trust moneys in loans on the Treasurer's behalf but retained the government's controls over wages and savings. At that time investments stood at $1.53 million ($12.2 million) bringing 'surplus' interest of $38,200 ($305,000) to the Welfare Fund. No further investments were made after 1967 although funds were still committed to term deposits with various banks.

In 1970 the government still controlled 10,450 account holders including 2160 child endowment and 567 pensioner accounts. Over $1.45 million ($9.9 million) – or more than 80 per cent – of their $1.8 million ($12.3 million) savings was 'invested to produce higher interest rate', generating $20,986 ($143,544) for the Welfare Fund. The minister opposed suggestions the government relinquish its control over the accounts arguing it might face costs of around $4 million if people were allowed to spend their money as they chose.[101]

Interest profit to the government between 1966 and 1983 via the Welfare Fund totalled $486,162 ($2.3 million), rising to $719,331 ($1.14 million) in the five years to 1988, and a further $29,404 ($35,848) in 1989 and 1990. If, as seems likely, the five-year spurt to 1988 also included matured principle, the source of the original investment would need to be identified.

2.1.3 Trust funds

The Aboriginal Protection of Property (APP) account was set up in 1902 to collect any wages owing or savings of workers who were said to have died or absconded and had previously remained unpaid. Formalised under the 1904 regulations, the APP soon operated for all missing or deceased workers to receive moneys for distribution to relatives. Unclaimed funds could be used 'in such manner as the Minister may direct, for the benefit of Aboriginals generally.'

The Aboriginal Provident Fund (APF) was set up under the 1919 regulations and comprised levies on annual wages at a rate of 5% for single workers and 2.5% for those with dependents. It applied to all workers not living on missions or settlements (who were already taxed around 10 per cent for 'maintenance') and was intended to provide 'relief' to workers and their families 'when in want, out of employment, sack etc', according to the 1921 *Annual Report*. A Public Service report on the department in 1923 found that almost half the deductions by protectors were inaccurate.[102] It criticised the government for allocating only £253 ($12,450) for relief despite acute suffering during a severe drought and levies of £3000 ($147,660) into the APF; while using £117 to deport 70 people to the Cape Bedford mission.

The Report also found the APP was wrongly used as a suspense account for departmental refunds, transfers and advances. In addition, almost £1700 ($83,670) had been used for improvements at the Barambah settlement, as well as grants of £590 ($29,000) for mission maintenance which the commissioner described as 'unsound'. A further £1120 ($55,125) from the APP was spent on wages and sawmill expenses on government settlements.

From 1926 bulk sums from the APP and the APF were transferred to investment. During the 1925/35 period, covering the Depression years, Aboriginal funds were used to cover consolidated revenue shortfalls through a range of tactics. Fifty percent of the APP was diverted to the department's

[99] QSA SRS 505-1 Box 48, 6.1.61.

[100] QSA SRS 505-1 Box 48, 2.5.62.

[101] Cabinet Submission, undated, 1970. QSA SRS 505-1 Box 73.

[102] QSA TR1227:128 15.2.23 *Report on the Office of The Chief Protector of Aboriginals*.

Standing account which financed general operations, a confiscation which only ceased in July 1941.[103] This amounted to a total of £14,986 (almost $868,000), with a further £4726 ($277,227) taken for 'industrial development' in 1934. For several years an additional £500 from the APP went to the Yarrabah mission as part of the state's 'grant', increased to £1000 ($49,22) in 1930 for development of the sawmill.

In 1931 an additional 191 'inoperative' private accounts with £4409 (over $242,000) were transferred into the APP 'to be held until the missing owners or their next of kin are traced'. This amount does not appear either as received or distributed under the APP. Nearly £11,000 ($541,420) in 1930 and over £10,000 ($549,000) in 1931 was transferred from savings accounts to the APP, compared with preceding years where totals were between £1300 ($62,550) and £2300 ($110,670), and subsequent years which dropped from £4147 ($240,000) in 1932 to only £644 ($31,000) in 1935.

A Report on the Aboriginal Settlements commissioned early in 1932[104] found a total of £9756 ($564,480) had 'been expended from the APP on matters of a purely maintenance nature as a general reduction of the Revenue Vote', including a motor launch for the Torres Straits, part-cost of a bridge at Monamona mission and timber for a Torres Strait hospital, and stated: 'It is admitted that for the last two years, owing to the financial position of the State, the Trust Funds of the Aboriginal Department have had to be called upon to meet expenditure of a purely legitimate maintenance nature.' While these funds could conceivably have been used to supplement the Vote 'in a general way', the Report said they should not have paid for 'particular items of maintenance'. In fact the two funds had 'met £7530 ($362,340) of the £9280 ($446,550) required for general relief, blankets transport etc.', and were 'preparing to bear at least £5630 ($270,900) of the requirements for the 1931/32 year'. The APF had also 'financed' the Aboriginal Industries Trading Station with a loan of £12,000 ($577,440).

A separate Report on the department in 1932[105] noted that although the APF was authorised to provide for the relief of indigent Aboriginal people, it had in fact 'been the means of relieving the revenue of the state of considerable sums yearly for the maintenance of Aboriginals' by subsidising the Vote. A £7000 ($384,300) investment was simply transferred to supplement the reduced Vote and the Fund was 'almost depleted'; money from settlement trust funds was transferred to keep it solvent. In the decade from 1925 around £18,960 ($933,200) was taken from private savings, and an additional £72,032 ($3.5 million) from the two Trust funds 'for departmental purposes'.

In 1936 £6347 ($362,414) was 'contributed' from the two Trust funds to the 'department of Health and Home Affairs' through its Standing account along with £7500 ($428,250) interest from invested savings, and a further £980 ($56,000) interest on the savings account operating balance and settlement trust funds. These appropriations were described by the auditor as 'not strictly in conformity with the meaning of the Standing Account' as defined in *The Audit Act Amendment Act (1890)*. An investigation in 1941[106] declared 'contributions' to the APF were unjustifiable since relief and maintenance were clearly a legitimate charge against consolidated revenue. They recommended the APF be closed off.

The 1941 Investigation also criticised the department's failure 'to make proper inquiries' for distributing estates and accounts to the relatives of dead or mission persons. It said the 'collection' of funds from the APP and the APF – £91 ($4580) from the former and £2318 ($116,780) from the latter in the 1940/41 year alone – were 'unauthorised'. It found the APP was so depleted it was in danger of insolvency if claims were made on it by relatives. Auditors confirmed the APP's precarious position: it had a contingent liability of over £74,000 ($3.6 million)[107] representing thousands of unclaimed balances, but held only £1110 in cash plus £2765 in loans to meet it. The auditor said many claimants listed as 'missing' or with inoperative accounts probably had no knowledge of their funds; and many deceased persons' estates had not been distributed despite records of entitled relatives.

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103 *Audit Report* 1941.

104 QSA A/58915 April 1932 *Report on the Aboriginal Settlements at Palm Island, Cherbourg and Woorabinda and the Aboriginal Missions at Yarrabah and Monamona, 1932*.

105 QSA A/58856 9.11.32 *Report on the Chief Protector of Aboriginals Office*.

106 QSA A/4291 *Investigation into the Sub-department of Native Affairs.*

107 QSA TR254 1B/23 7.5.42.

In fact successive auditors had warned the government there was no legal basis for all contemporary dealings on wages and trust founds since the passing of the *Aboriginals Preservation and Protection Act (1939)* which cancelled previous regulations (new regulations were not gazetted until 1945):

> 'Consequently, no authority exists for, among other things, the percentage deductions from wages for the Aboriginal Provident Fund, transfers of moneys of deceased natives, where there are no beneficiaries, to the Aboriginal Protection of Property Account, transfers from Trust Funds to Standing Account, and for the order in which the estates of deceased natives should be distributed ... the scale of wages and the settlement maintenance charges were not even covered by the regulations under the repealed Acts.'[108]

Ignoring annual protestations from auditors, the government appropriated around £20,000 ($1 million) annually from Aboriginal earnings in the years to 1943 and to cover government expenses such as relief and rations to indigent Aboriginal people, costs of compulsory relocations of families (removal expenses), maintenance, and wages of Aboriginal settlement workers. Auditors warned as early as 1939 that despite 'the cognizance and approval' of Treasury such outlays were 'wrong in principle' being 'without the authority of Parliament'.[109] The director protested that 'much of this taxation is an injustice' because 'relief on the one hand and maintenance on the other are definitely charges against the Consolidated Revenue.'[110] Cabinet decided in May 1941 to continue the procedure.

In 1942 the director again objected that using Aboriginal trust monies for rations, clothing, blankets, removal costs and maintenance of children in State homes which were clearly 'charges against the revenue of the State ... cannot be regarded as ever having been justified'. Again the auditor described these practices as 'improper'; again Cabinet decided to 'adhere to the present procedure.' In July 1943 the annual budget shortfall was calculated at £19,000 ($805,600), and again the director endorsed a formal complaint from the auditor. In August 1943 Cabinet set up the Aborigines Welfare Fund (AWF) under a wide remit which allowed APP and APF funds to be used towards 'for the benefit of Aborigines generally', and thus for items previously paid from consolidated revenue.

Aboriginal Welfare Fund operations are complex, poorly defined and carelessly recorded. It operated as a Treasury Trust fund from 1941 until 1993 when it was frozen after indigenous protest. Income derived from sale of produce from reserves, enterprises on reserves, 'contributions' from Aboriginal workers (ie APF and settlement maintenance deductions), unclaimed moneys (ie the APP), and 'such other monies as may from time to time be prescribed.' Profits from 'surplus interest' flowed into the Welfare Fund, thereby reducing financial input from consolidated revenue for Aboriginal administration. While the department was legally empowered to make investments, the parlous state of the Welfare Fund, which was frequently run into debt, raises disturbing questions as to who 'benefited' from the sidelining of vast amounts of private money. No regulatory provisions were ever formulated to define its proper operations.

Mission workers were denied benefit from their APF levies into the AWF, the government insisting the Fund was only intended for 'the payment of wages and material, plant etc involved in the industrial undertakings on government settlements.' In 1955 when four missions lobbied to retain their APF deductions, the amount at stake was almost £3000 ($60,900) but the government again refused to allow missions 'the benefit of monies contributed by their employed Aboriginals' through APF payments. The following year mission authorities wanting to improve derelict housing again pleaded for relief through the Welfare Fund 'to which so much money is paid from the working effort of our people' but the department argued that the generality of the Welfare Fund precluded calculation of specific input from particular institutions.[111] Yet housing, building and development projects funded on settlements through the Welfare Fund surely contradicted this contention.

Forced relocations of individuals and families to controlled reserves were a charge on consolidated revenue yet 'removals' were consistently debited against the Welfare Fund as 'recoverable expenses'. In the 1950/51 year the Welfare Fund carried removal costs of £5034 ($129,072) while only 55% was

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108 *Audit Report* 1940.
109 QSA A/69634 3.4.41.
110 ibid, 3.9.41.
111 QSA TR254 1A/188 20.2.56.

repaid from the Vote; in 1968/69 the outlay was £4179 ($29,630) of which only £264 was repaid; in 1971/72 outlays were £7000 ($45,150) none of which was repaid. In 1974/75 the amount charged to the Welfare Fund was £3750 ($15,750) and again none was repaid. These sums were costs on the Vote; they should never have been carried by the Welfare Fund. In the 1972/73 year $59,300 ($360,544) was transferred to Welfare Fund from the Assisted Persons Estates account (previously the APP).

In January 1945 the government bought a property near Murgon through a 'loan' from QAA, without the knowledge or consent of account holders. Costs of developing the Aboriginal Training Farm (ATF) were charged against the Welfare Fund although the director protested it was 'neither competent nor eligible' to meet these costs.[112] In the year to June 1946 the ATF ran a £1676 ($70,358) loss, carried by the Welfare Fund. In 1946 the government bought another property, renamed Foleyvale, Cabinet again approving a loan of £10,000 ($419,800) from 'surplus funds in Aboriginals savings accounts.' The director again objected that the Welfare Fund was used for items outside its responsibility, particularly Aboriginal wages which he insisted were 'outside the responsibility' of the Fund and should be charged against the Vote because they were 'administrative work'.[113] Wages, including for white staff and overseers, continued to be charged against the Welfare Fund.

In 1948 the director again complained the Fund was 'bearing a considerable amount of expenditure which truly could be regarded as legitimate Vote expenditure', including 'the cost of removal of Aboriginals, indigent, sick and refractory.'[114] Indeed expenditure loaded against the Welfare Fund was so heavy it was in debt six of its first ten years of operation. By late 1952 the Welfare Fund had covered Foleyvale's losses for six of its seven years, and for every year that the ATF had operated. Again the government charged wages of settlement workers against the Welfare Fund and again the director protested 'as the natives concerned are Departmental employees, the cost should obviously be transferred to Vote.'[115]

In 1959, when settlement wages were again charged against the Welfare Fund during budget cuts in 1959, the director protested that 'the Welfare Fund is, as applied many years ago, carrying a major portion of this expenditure' which was not a legitimate charge against it. The chief accountant stated that the dramatic drop of over £35,000 ($611,800) in Welfare Fund holdings was caused through the diversion of the Fund's holdings to cover what was otherwise Vote expenditure.[116] Welfare Fund estimates for 1958/59 for Palm Island listed a new launch, new tractor, new truck and land rover totalling £6700 ($123,146) which documents in 1960 reveal as 'the first time we have provided against Welfare Fund to purchase vehicles.' 'The result of the foregoing was a financial benefit to Contingencies Vote and a drain on Welfare Fund to such extent that the latter is unable to meet similar commitments in future.'[117] In 1960 the director said the Welfare Fund was carrying 'considerably more than it is reasonably capable of doing' and 'to enable services to continue, it became necessary to delete legitimate charges against Vote and make them a charge against Welfare Fund'; other items, such as desperately needed rural housing, 'were entirely deleted'.

Welfare Fund losses were compounded by incompetent business practices. In 1970 the auditor noted that the department's cattle projects had developed 'from a mere training scheme into a large business', and in 1971 the director said the department was the biggest 'cattle baron' in Queensland, with almost 21,000 head of stock on 10 of the 16 Aboriginal reserves and annual sales of over $250,000 ($1.6 million a year. Yet this was speculation. The department had produced no financial statements for this 'multi-million dollar business' in 25 years of operations – no stock count, no register of purchases or sales, no estimate of natural increase and wastage, no profit-and-loss account – nothing.

Eight years later the audit inspector said there was still no way to verify cattle numbers submitted by the department because there had been no musters on the two larger cattle holdings. This precluded any assessment 'of the efficiency of these cattle projects on the larger communities.'[118] Auditors in

112 QSA TR254 4H/10 23.6.47.
113 QSA A/69634 24.6.47.
114 QSA TR254 1A/303 25.6.48.
115 QSA TR254 1A/380 3.8.54.
116 DYFS 01-057-007 10.11.60.
117 QSA TR254 1A/524 26.11.60.
118 *Audit Report* 1978/79.

1986/87 again raised concerns over slack practices: livestock controls were 'not maintained satisfactorily' and reconciliations were incomplete. Cattle purchased through the Welfare Fund for a cattle-fattening project had been transferred out of the books but not transported for fattening. The auditor recorded his 'difficulty...to argue against the project being funded from the Aborigines Welfare Fund when the department of Community Services is considered (by the department of Community Services) to be a large land and cattle holder in Queensland.' It must surely have been the only enterprise of such status and longevity which charted its stock controls on a 'handwritten sheet attached to the inside front cover of the relevant file'.

In 1990 the auditors again complained of 'significant problems with the department's livestock operations' including failure to perform annual musters, substantial shortages between record and muster counts, inaction regarding livestock reported missing and failure to advise police of losses. Musters on the three large holdings showed shortages costed at $623,060 ($711,750); the disappearance of cattle valued at $49,000 ($56,840) being transported to Mareeba in late 1988 was still not investigated; neither had investigations been made into horses valued at $17,050 ($19,780) missing from Lockhart River in 1989. The auditor described these matters as 'most unsatisfactory', and against 'sound commercial' practice.

Cost of these basic business failures and negligence can be identified in balance sheets of the Welfare Fund which showed it carried cattle trading losses every year bar one between 1974 and the last detailed records in 1991, losing the equivalent of $2.4 million to 1980 and a further $11 million to 1990. The department's failure to implement effective stock control systems and financial procedures despite constant warnings from auditors drastically impaired the Welfare Fund's capacity to honour its mandatory commitments to benefit 'Aborigines generally'.

The increased loading of wages against the Fund further jeopardised its capacity to meet its mandate. Between 1972 and 1976 over $1.13 million ($5.45 million) of Welfare Fund holdings was used for wages, rising to $2.16 million ($6 million) between 1977 and 1982.[119] In 1979 when wages of $900,000 ($2.5 million) for 101 store and stock workers were transferred against the Welfare Fund, the director lobbied Treasury to pay annual interest of $100,000 ($279,000) generated by the Fund, back into the Fund rather than to Treasury.[120]

During the 1968/69 year the Commonwealth Assistance to Aborigines Fund (CAAF) was commenced at Treasury to receive Commonwealth funding for Aboriginal housing, health and education. Rents received from housing were to be credited 60% to the fund and 40% to consolidated revenue for administrative costs, credited to the maintenance Vote. Rentals from state-funded housing became an increasingly important revenue component of the Welfare Fund, climbing rapidly from an initial $7227 ($56,000) in 1967 to $104,091 ($578,746) in 1973, when house 'repairs and maintenance' were first charged against the Welfare Fund. As with the cattle enterprise, the department's inept handling of rental revenue, which provoked continuous complaints by auditors, is significant because of the adverse impact on Fund holdings.

Settlement employees were always grossly underpaid; since 1979 the department had been advised by the Crown Solicitor that this was illegal. There is little doubt that rental arrears reflected the department's strategy of effecting mass sackings on the settlements to hold wage payments within budget.[121] By mid 1974 rental arrears totalled $111,800 ($540,000), nearly one third of tenants being over $100 ($483) in debt. It was reported that the section was understaffed and there was 'little follow up action on arrears'. A year later auditors expressed concern at the 'declining position'; arrears had almost doubled, with over 40% of tenants over $100 behind. In 1976 arrears had increased by almost 30% to $263,931 ($976,545); auditors described this as 'excessive' and demanded to know what action would be taken to reduce losses. In 1977 the debt increased a further 43% to $377,161 ($1.24 million). Noting the obvious deterioration, auditors again asked the director to inform them what action would be taken to reduce arrears and maintain rents on a paid up basis.

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119 Investigation of the Aborigines Welfare Fund and the Aboriginal Accounts, Consultancy Bureau, March 1991.

120 QSA TR254 1C/190 24.9.79.

121 http://www.linksdisk.com/roskidd/site/Speech4.htm.

From 1980 Commonwealth housing grants were processed through the Welfare Fund as was any income from sales of houses and land originally purchased through the CAAF. Direct Commonwealth inflow rose from $6.3 million ($16 million) in 1980 to $10.35 million ($17.6 million) in 1985 to $25.2 million ($29.2 million) in 1990.[122] This should have been reflected in a rental bonanza to the Fund. But in 1981 a further 100 'marginal type' employees were charged against the Welfare Fund and the department accountant warned 'cash resources of the Aborigines Welfare Fund are *again* being seriously depleted' (his emphasis).[123] In 1982 Cabinet declared it would not fund wage increases, forcing the department to sack more workers and bringing unemployment across the communities to 92.5 per cent. This impacted on the Welfare Fund: there was a five-year backlog for house maintenance, building programs slowed, and housing allocations in the Welfare Fund were further bled for wages. In late 1983, the executive officer warned the director the cash liquidity of the Welfare Fund was 'alarming' because of a $1.25 million ($2.4 million) blow out of expenditure over receipts. In a 'strictly confidential' letter the director notified the department's manager at Yarrabah that the financial position of the Fund 'is occasioning grave concern', and demanded employee numbers be reduced to an absolute minimum.[124] Welfare Fund balance for the year fell by nearly 50% to only $1.9 million ($3.6 million).

By 1990 outstanding debts in respect of house purchases, rent, electricity and hostel charges stood at a massive $2.55 million ($2.96 million), almost 13 per cent up from 1989, 40 per cent of which was 'aged' debt. Auditors in 1990 also criticised the improper transfer of $1.9 million ($2.2 million) of rental income during the first six months of 1990 from the CAAF to the Welfare Fund under the expenditure heading 'Other Administration Costs'. It transpired that $1.4 million ($1.75 million) had been similarly transferred in the last half of 1989, along with another sum of $918,299 ($1.15 million), comprising revenue from electricity charges. According to the auditor, this strategy was effectively a credit to the Vote and lacked approval of the Treasurer, so contravening s.34A of the *Financial Administration and Audit Act (1977-1988)*.

Annotations described such contra transfers as a 'longstanding practice'. The financial controller said the department simply considered all CAAF receipts as being 'fully spent on house maintenance' and transferred them to the Welfare Fund 'as a credit back to the Vote'.[125] In effect, instead of 60% of rents returning to the CAAF to maintain the housing pool to alleviate acute pressure on housing, the amount was benefiting consolidated revenue. A letter to the auditor-general revealed that the department credited $5.2 million against 'administrative costs' during the 1989/90 year.[126]

The department's aggressive policy to harness investment revenue, and the lack of any competent housing register, cast grave suspicions on the 'surpluses' achieved in Commonwealth housing funds processed through the Welfare Fund. These totalled around $3.64 million in the years between 1980 and 1984, at which time a housing survey showed averages of over 7 persons per house at Cherbourg, almost 12 per house at Palm Island and more than 18 per house at Weipa. Over 80 per cent of the homes at Woorabinda were listed as overcrowded, 42 per cent grossly so, with many of the houses described as in 'dire need of repair'.

There were further surpluses of $7.88 million between 1985 and 1990: in the 1989/90 financial year, of the $25.23 million ($29.26 million) Commonwealth funding paid into the Welfare Fund for housing only $15.38 million ($17.8 million) was spent on this item; in 1990/91 the relative figures were $24.9 million received compared with $18.48 million spent. Treasury reaped an interest return on daily balances which it retained for consolidated revenue despite continued appeals as late as 1990 that the benefit flow to the Welfare Fund. According to figures in the 1991 Consultancy Bureau Report the balance in the Welfare Fund at June 1990 was $18.7 million. Interest rates were then around 18 per cent; this would return around $3.3 million. Aboriginal families, meanwhile, were trapped in overcrowded squalor. Although the government is keen to distribute the residue of $9.3 million in the Fund, there should first be a full investigation to determine its rightful value 'for Aborigines generally' had it been competently managed.

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122 Investigation of the Aborigines Welfare Fund and the Aboriginal Accounts, Consultancy Bureau, March 1991.
123 QSA SRS 505-1 Box 550 16.9.81.
124 ibid, 10.11.83.
125 QSA TR254 1A/2124 22.7.88.
126 DFSAIA 01-043-026 18.11.90.

2.2 New South Wales

From the 1880s the Aborigines Protection Board argued employment of children would reduce government maintenance costs of rationing on reserves, and sought control of children's wages.[127] In 1898 the Board opened an interest-bearing Trust account for child wages, then comprising £171 ($17,865) held for Warangesda child workers and over £107 ($11,217) earned by Brewarrina children. By 1899 wages in the Board's Trust account had more than doubled to over £245 ($23,314), and £284 ($26,435) in 1904.[128] Government management of Aboriginal money was regulated by the *Audit Act (1902)* and subsequent legislation.[129]

The *Aborigines Act (1909)* set minimum rates for wages and pocket money, applicable where 'no other agreement' was made. Child wages ranged between 1 shilling and 6 pence to 5 shillings ($6.30 to $21) for first to four year apprentices, compared with the white child servant wage of 10–20 shillings.[130] Apart from pocket money for personal use (around 20 per cent of the wage), the wages were banked in the Board Trust Account to be expended 'in the interest of the child as the Board saw fit' or paid out on completion of the apprenticeship 'or such other time as approved by the Board.'

Although the Board was responsible for the conditions of apprenticed children and recovery of wages payable it did not check whether the pocket money portion was properly paid nor did it prevent the substitution of inferior items for goods charged against wages at full price.[131] Many children received no pocket money.[132] With the consent of the Minister, the Board could 'apportion, distribute, and apply as may seem most fitting, any moneys voted by Parliament and any other funds in its possession or control, for the relief of Aborigines.' Wages paid quarterly direct to the Board could thus be expended at the Board's discretion in the interests of the child, the balance paid to the child at the end of their apprenticeship 'or such other time' as approved by the Board.

By 1917, the Board held £1999 ($114,143) in trust and transferred £1000 ($57,100) to investment in War Certificates; the following year it unsuccessfully applied to take direct control of wages of all independent workers. By 1918 it controlled 180 children in employment and over £2000 ($107,040) of child wages in their trust account.

In 1921 the Board was authorised to put money into a 'special deposits account' which was used to cover deficits in general expenditure.[133] Including 62 accounts dating from before 1910.[134] From 1922 Salary Registers listed each person's cash payments from employers and other receipts such as endowment; over £5288 ($260,275) from 437 accounts was transferred from the ledgers,[135] Interest was credited annually. Ledgers for 1922 show the Board held In 1923 the central Trust Account was transferred from the Savings Bank department to the Rural Bank department within the Government Savings Bank.[136] Wages of children taken under the *Child Welfare Act (1923)* rather than the Aboriginal Acts were put in a separate Fund controlled by the Minister for their 'benefit and maintenance'; this Fund could be used for administration expenses.

In 1926, when wards received pocket money averaging only sixpence ($1.20) weekly, the government reported most savings balances were £60 ($2855) or more and 'some hundreds' of wards had 'substantial amounts' to their credit.[137] The 1927 *Annual Report* noted balances ranged from £40-£100 ($1925-$4812). The Board made little effort to pursue defaulting employers in arrears and made no restitution to apprentices whose non-payment breached contract terms; wages owing by

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127 *Annual Report* 1906.

128 McGrath 2004, 8.

129 PIAC 2004, 8.

130 Walden 1995.

131 Inara Walden, "That Was Slavery Days: Aboriginal Domestic Servants in NSW in the 20th Century" in *Labour History*, No. 69, 1995, 196-209. (Walden, 1995 B)

132 Walden 1995, 3.

133 Victoria Haskins, '& so we are "Slave owners"!: Employers and the NSW Aboriginal Protection Board Trust Funds', *Labour History*, No. 88, May 2005, para 9.

134 NSW State Records 4/8558-8559 Ledgers (Trust Account), circa 1897-1922.

135 NSW State Records 4/8560-8561 Salary Registers (Trust Account), 1922-34.

136 Haskins 2005, para 8.

137 Haskins 2005, para 24.

three employers were simply written off as irrecoverable in the first half of 1928.[138] The Board consistently opposed financial independence for single ex-servants: one woman who had worked for nearly a decade till the age of twenty-five was refused her money, receiving only an interim payment of £5 ($236). Girls who married seemed to fare better in requests to gain control of their savings.

In the period 1922-34 sixty per cent of accounts in the Register belonged to female wards.[139] Although entries in the Register were audited and cross-checked with cash book debits, the majority of payments were made to police or station managers and are not proof the money was received by the account holder.[140] The records show very few lump sums were paid out and one official in 1934 said it was unofficial policy that savings be released 'in dribs and drabs' when needed. This condemned ex-wards to the very poverty and destitution it was intended to alleviate, even for the many who had accumulated considerable earnings.

After 1936 the Board could take direct control of the wages of any Aboriginal worker and 'expend it on behalf of the person to whom it was due'; it was also responsible for proceeding against non-paying employers. After the 1937 Committee Inquiry revealed non-payment of wages and/or pocket money, an Amendment Act in 1940 directed the full pocket money be paid in cash and receipted in a pocket money book available for inspection by Board or police officers, yet non-payment of pocket money continued. Instructions in 1941 to managers of government stations directed workers contracted to external employment be listed in a separate work book showing their name, employer details, nature and period of work and wages actually received.

The 1941 instruction manual set guidelines for handling the trust accounts of child wards and confirmed application of the *Audit Act (1902)* and contingent Treasury regulations. Regulations the same year required wages to be paid to the Board monthly, and regulations in 1944 broadened the Board's discretionary powers over 'any moneys' held on behalf of a ward or ex-ward which could be expended 'towards the maintenance, advancement, education, or benefit' of that person; the balance to be paid to the ward on reaching 21 years.

Apprentices seeking to withdraw from their savings were vetted by police as to their intentions; claims were routinely prolonged and many were refused. At times finances were denied on the grounds records could not be found, prompting Aboriginal activists such as William Ferguson to claim the Board had destroyed them.[141] The 1943 regulations clearly required the Board to inform wards who completed their apprenticeship of the termination of state guardianship and the amount held for them in trust and how to recover it, but records show the Board at times did not comply with this statutory provision. Bulk savings were transferred to investment: correspondence in 1944 refers to Treasury Bonds held by the Board on behalf of Aboriginal account holders, and from 1948 the accountant was requested to forward to the Board opportunities to invest monies from the Trust in Commonwealth Bonds.[142] It is not known what profit the government made from these investments; there is little question wards were disadvantaged by the unavailability of their savings.

During the 1950s and 1960s there was a rapid uptake of children into institutions, from 170 in 1951 to 300 a decade later.[143] Although the 1963 Amendment relinquished control of non-ward's wages the Board continued to send children to employment and take direct control of wages. In 1966 rates for indentured children were set under awards under the Commonwealth *Conciliation and Arbitration Act (1904)*, rather than the Board, although the Board maintained the employment contracts and its direct control of wages, apart from pocket money. The *Aborigines Act (1969)* dissolved the Board, transferring control of Aboriginal wards to the Minister responsible for the *Child Welfare Act*, in whom it vested all properties and monies held by the Board.

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138 Haskins 2005, para 29.

139 Haskins 2005, para 7.

140 NSW State Records 3/5896 Cash Books, 1911-14; 3/5897 Cash Books, 1925-34; 3/5898-5901.

141 Haskins 2005, para 43.

142 NSW State Records 4/8544, Reel 2792, Minute Books 1911-69.

143 Goodall 1995, 90.

2.3 Northern Territory

It appears the first Aboriginal trust account was started in 1913 to take ten per cent of wages paid to Aboriginal employees of the government; if a servant absconded the employer was refunded all paid wages.[144] By the time Treasury legitimised this procedure in 1915 improper usage of the trust accounts was already apparent.[145] From 1916 children were sent as servants to Adelaide at wages substantially lower than South Australian child servants. Employers were required to supply food, clothing, accommodation and medical attention; children were paid 5 shillings weekly which went direct to the Alice Springs' protector for lodging in a savings account and withdrawals could only be made with the chief protector's permission. By 1917 there were 481 accounts worth £1448 ($82,680).

The *Ordinance (1918)* directed a portion of rural wages be paid direct to protectors or police. In the same year unclaimed wages in 500 accounts, with a total value of £1202 ($64,330), were simply transferred to Treasury.[146] The administration admitted stockpiles of unclaimed money showed workers did not know of their wage entitlement nor how to claim it; it admitted other monies earned by workers were not banked in the trust account.[147] Men over 21 years did not necessarily gain control of their earnings; in 1921 a 22-year-old man who had worked since he was 14 and had savings of over £220 ($10,470) was denied permission to have a passbook on the grounds he was a 'spendthrift'.

Evidence to the 1919/20 Royal Commission revealed it was easy to corruptly access trust monies especially since many workers were illiterate and endorsed withdrawals with a cross, and at times cash was released simply on the word of someone in authority. Immediately after the Royal Commission £1184 ($49,230) in 'unclaimed money' was transferred into consolidated revenue.[148] Recovery of wages remained a low priority, as did administration of the Trust account. Despite attempts by the chief protector to have unclaimed money made available for general Aboriginal benefit it was decided sums unclaimed after 6 years would revert to Treasury.[149] The government reaped the interest on controlled savings, and, according to Ann McGrath, the Aboriginal trust fund was one of the few government schemes which made a profit.[150]

Contracted employment and controlled savings could be lifetime sentences for Northern Territory girls and women. In breach of regulations requiring trust monies be lodged in a single account, the Alice Springs protector opened individual accounts for Adelaide servants. By 1925 one girl's account held £83 ($3950), and total savings under the protector's control was £1516 ($72,130).[151] By 1926 24 girls and 4 boys had been sent from the Bungalow as servants in Adelaide, and the protector suggested wages be increased to 8 shillings weekly after two years' service with 3 shillings paid directly to the protector's control, although for girls over the age of sixteen this now was banked with the South Australian chief protector in Adelaide for easier access. A sum of £15.12.0 ($768) was found missing from one worker's account between 1930/32 and only partially repaid, her claim weakened by the absence of any employment contract.[152] The *Ordinance (1927)* empowered the chief protector to retain control of the savings of adult men; half-caste girls over 18 years who applied could be released from state controls if deemed capable of managing their own affairs. From 1928 the savings of half-caste workers with more than £20 ($962) could be transferred to interest bearing bank accounts.[153]

From 1929 a medical benefit fund required half-castes to contribute 6 pence weekly for single workers or 1 shilling for those with dependants, plus one shilling weekly from employers; contributions were optional for white workers who, in any case, received free medical treatment. This deduction was in addition to an employer-financed Aboriginal Medical Benefit Fund which accumulated large balances in

144 Austin 1993, 103.
145 Austin 1993, 68.
146 McGrath 1987, 138.
147 Austin 1993, 68
148 Austin 1993, 68.
149 Austin 1993, 68.
150 McGrath 1987, 139.
151 Austin 1993, 83.
152 Austin 1993, 83.
153 Austin 1993, 123.

Treasury. The chief protector argued this fund should be used to build Aboriginal hospitals rather than subsidise free medical care for half-castes already covered by the general benefit fund. He was overruled.[154]

Much of the wage[155] of youths contracted from institutions under the *Apprentice (Half-Castes) Regulations (1930)* went direct to the trust account, although by 1932 pastoralists succeeded in slashing the wage to only ten shillings 'or such sum as the local protector may consider', of which 6 shillings went direct to the apprenticeship fund.[156] Youths over 18 years who joined the Australian Workers Union were legally due the same wage as white apprentices. Rowley mentions a housing scheme operated in 1932 for employed half-castes 'on the basis of subscriptions from the Trust Accounts'.[157] The *Aborigines Ordinance (1933)* increased wages of female town workers to 6 shillings weekly, all of which was paid into the trust account,[158] and mandated employer contributions to the Medical Benefit Fund.

From 1933 the superintendent at Jay Creek settlement (Central Australia) was charged with control of every half-caste male under 21 years south of the 20th parallel, whether in the institution or in employment. Boys were to be contracted to work including – until 1936 – children under 14 years, with the superintendent as authorising officer to withdraw money from the trust accounts, ensuring the boys were not defrauded or wasting their money. It was his responsibility to make deductions from wages in the trust accounts for the Medical Benefit Fund and to check employers of half-caste workers insured them under the Workmans Compensation Ordinance. The superintendent was 'directly responsible' to the chief protector in the execution of these duties.[159] In the 1930s the trust account held over £3000 ($173,580);[160] official complaints about branch accounts and trust account books continued.[161]

Under the *Wards Employment Ordinance (1953)* male wages were doubled to £2 ($80.80) weekly plus rations and clothing. Controls of half-caste wages ceased but trust fund provisions continued for the 15,700 full blood people defined as wards. Although wages for wards increased in 1957 to £3.10.0 weekly plus keep, the director retained the power to direct part-payment to the trust fund, and retained controls on access. Controls of wages and savings continued until the *Social Welfare Act (1964)*.[162]

2.4 Western Australia

From 1909 people contracted through the department, or those indentured from the children's Homes and missions, were pressured to put part of their wages into trusts accounts supervised by the department; it controlled 8 accounts in 1910. The department could use powers under the 1905 Act to take control of the property of Aboriginal people who died intestate and apply it to the needs of dependants. Evidence suggests it overstepped this power to handle personal affairs even where a will existed, and to the detriment of the beneficiaries.[163] After 1916 employers were pressured to pay part of the wage direct to department control for deposit in individual trust accounts; by 1919 the department managed 53 such accounts with a total balance of over £1555 ($73,200).

From the 1920s children from around the state were sent to Moore River to be processed into the wider community as servants from the age of 14. Ninety youngsters were sent out to domestic work in 1928 alone, and girls were forbidden to use private employment agencies to seek better positions and pay.[164] The whole wage of children under 16 was sent direct to department control; older children were given some pocket money in hand; in the 1930s this was around one-third of the

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154 Austin 1993, 187-9.
155 1930 - 19 shillings and 6 pence to 34 shillings and 6 pence
156 McGrath 1987, 138.
157 Rowley 1986, 281.
158 Austin 1993, 187.
159 Austin 1993, 160.
160 McGrath 1987, 138.
161 Austin 1993, 126.
162 Taffe 2005, 145.
163 Haebich 1998, 123.
164 Haebich 1988, 251.

weekly wage of 7 shillings and sixpence ($21.70), although experienced servants could earn up to 25 shillings ($61).[165]

The number of controlled trust accounts increased rapidly during the 1920s, and many people subsequently claimed they never received these earnings.[166] In the 1930s, the amount directed to the department from domestic wages was 5 shillings ($14) (two-thirds the wage) for first year workers and half that again for second year girls; the wage doubled again for experienced workers. Head office vetted all requests to access private savings, and frequently denied them. It was not department policy to provide girls with details of transactions on their savings, even when requested. By 1934 the department held 173 trust accounts totalling over £2300 ($134,920) with a further £2400 ($140,785) sidelined in investments.[167]

The *Native Administration Act (1936)* introduced an Aborigines Medical Fund for station workers, comprised of an annual £1 fee for each permanent worker and all dependants, 10 shillings for trainees and 5 shillings for casual workers. Employers who contributed to the voluntary fund were absolved from workers compensation insurance.[168] It was not until the *Native Welfare Act (1954)* that the voluntary medical fund ceased and all workers reverted to full workers compensation cover.[169] The 1936 Act empowered the Aboriginal department to officially control all property of intestate wards, previously controlled by the curator of Intestate Estates and claimed by the Crown. The department now also claimed the wages of any absconding or deceased workers which, with the estates, went into a special trust fund for the benefit of Aborigines generally.[170]

2.5 South Australia

The *Aborigines Act (1911)* empowered the chief protector to take control the property and finances of any Aboriginal or half-caste and receive property and wages owing to any deceased person. Under this law and also the *State Children's Act (1895)*, children could be institutionalised and then sent to employment until the age of 21 years (reduced to 18 years after 1923), their earnings controlled by the government. Wages of children sent to work from the missions were controlled by those institutions. Under the 1939 Amendment Act the government could control the finances of all people defined as Aboriginal, even those not living on missions or stations; only those granted an exemption from state control were allowed to operate private bank accounts.

In 1940 the Board held 'a number of accounts' at the Savings Bank of South Australia in the joint names of the chief protector of Aboriginals and person to whom the money belonged;[171] it is not clear what restrictions were placed on clients accessing these savings. In 1954 one man was advised he had a balance of almost £257 ($5340). In 1953 45 Aboriginal trust accounts holding £2375 ($49,590) were consolidated into a single interest bearing account in the name of 'Trust Fund – Aborigines Protection Board'.[172]

It appears that workers compensation payments were made in the first instance to the Aboriginal authorities (as was the case in Queensland); in 1932, the chief protector was denied control over a £500 ($29,000) payment. In 1942 the chief protector refused to transfer £125 ($5518) from a deceased estate to the beneficiary unless the man exempted himself from the Act (which would have prevented him from returning to a reserve without a permit, and disbarred him from relief from the Board). The chief protector admitted he had 'no power to retain the money without the consent of the Aborigine concerned.'[173] In 1951 the chief protector successfully applied to control a military Gratuity due to a recently widowed mother and her two children.[174]

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165 Haebich 1988, 214.
166 Haebich 1998, 162.
167 Haebich 1998, 214, 251.
168 Jebb 2002, 157.
169 Jebb 2002, 242.
170 Haebich 1998, 345
171 Raynes 2006, GRG 52/1/1940/48.
172 Raynes 2006, GRG 52/1/1953/114.
173 Raynes 2004, 43.
174 Raynes 2006, GRG 52/1/1951/76.

2.6 Victoria

The *Aborigines Protection Act (1869)* introduced a system of work certificates and contracts; regulations in 1871 allowed for wages to be paid directly to the local 'guardian', and the Board could use these earnings for administrative needs.[175] The *Aborigines Act (1910)* extended Board controls to cover all half-castes. Children were institutionalised under either Aboriginal and mainstream legislation, to be indentured to work and their earnings controlled. Following procedures in other states, it is likely that part or all of the wages of adults employed under Board work certificates were controlled by the Board. If this is the case, management of those trust accounts should be investigated.

2.7 Tasmania

Tasmania ran no separate institutions to receive Aboriginal children taken from their parents. Children of Aboriginal descent in Tasmania could be institutionalised under mainstream laws such as the *Industrial Schools Act (1867)* and the *Children of the State Act (1918)*. The income of working child wards and reserve inmates was likely to have been controlled as it was in mainland states and territories. Those trust funds, and government transactions upon Aboriginal money including workers compensation and inheritances, should be investigated.

3. Commonwealth entitlements

3.1 Maternity allowance

Under the Commonwealth *Maternity Allowance Act (1912)* a £5 ($360) cash grant was paid to parents of a newborn child as an initiative to improve the lives and health of Australian children. Aboriginal mothers with 'less than 50 per cent Aboriginal blood' were eligible, whether living on a reserve or not. From 1934 the allowance increased five shillings for every additional child to a maximum extra £5.

In **New South Wales** officials and police were advised to apply promptly within the three month registration period, and were told in 1919 that mothers could be encouraged to relinquish control of the allowance to the Board.[176] In **Queensland** 'lighter-skinned' mothers under state control were also eligible, their allowance retained by the department, and from at least 1928 it was department policy to take 80 per cent of the allowance from mothers living in settlement dormitories and 50 per cent from those in settlement camps. Mothers receiving limited provisions for their new babies were told it was a gift from the government; they were not told it was an entitlement.

The *Social Services Consolidation Act (1937)* extended pensions, unemployment and sickness benefits, and the maternity allowance to those who met the required standard of 'character, intelligence and social development'. At the first national conference on Aboriginal Welfare in 1937 the **New South Wales** Board justified withholding the maternity allowance on the grounds mothers receiving rations and clothes plus child endowment of 30–40 shillings a week ($82.35-$110) should not 'expect' more.[177] A resolution that the maternity allowance be paid 'in trust' to the relevant state authority rather than direct money order payments to mothers, did not succeed in changing Commonwealth policy. A 1941 Manual to station managers in New South Wales stressed mothers' spending of the allowance should supervised to make sure they 'met [their] obligation to hospitals etc.'

The *Maternity Allowance Amendment Act (1942)* extended the benefits to 'aboriginal natives living under civilized conditions whose character and intelligence' qualified them to receive a pension. All Aboriginal mothers exempted from state control could also claim the allowance which was increased in 1943 to £15 ($636) and up to £17/10/- for mothers with three or more children. State governments could now also claim the allowance for mothers controlled on missions and reserves, receiving bulk payments for these 'institutions' to be distributed at their discretion. The **Queensland** government was warned in 1943 that no ministerial authority could be found authorising the confiscation of most

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175 Public Records Office, Victoria, *Finding Your Story*, 2005, 85.

176 ILC 2006, 37.

177 Zoe Craven, draft report for ILC submission, 2005, 11.

of the allowance to meet state liabilities to maintain mothers confined on reserves; it continued the practice regardless. Investigation in other states and the territory will likely uncover similar practices.

Evidence shows both the Queensland and New South Wales governments consistently lobbied for pensions and the maternity allowance to be paid to all Aboriginal people. In 1953 federal Treasury claimed 'lack of finance' for this anomaly. After 1959 all Aboriginal mothers were due the payment, although the allowance was repealed nationally between 1978-1996.

3.2 Child endowment

The Commonwealth *Child Endowment Act (1941)* allotted a weekly cash payment of 5 shillings ($12) to mothers – including foster mothers and adopting mothers, but excluding nomadic mothers – for children under 16 years other than the first born, excepting children wholly maintained in institutions.

3.2.1 Queensland

By 1942 the Queensland government had successfully applied to have its settlements defined as 'institutions' so it could receive bulk quarterly endowment payments on behalf of settlement mothers. In the first four months to November 1942 over £1148 (over $50,000) was deposited in the department's suspense account for 'institutional' children, which the auditor noted 'should, as a corollary, cause a definite reduction in the amount of Free Issues at these settlements'. The government also profited by immediately cutting grants to missions by the same amount as incoming endowment revenue. Whereas the Presbyterian mission committee had anticipated using the £926 ($40,000) quarterly payment to improve housing, education, dormitories and schools, they were forced to apply endowment to maintain the ill and elderly as their subsidy was cut to 'the smallest fraction of one penny per head per day.'[178]

Settlement superintendents were instructed 'the whole or any part of' the endowment did not have to be expended in any given period. By mid-1944 endowment revenue to the department was over £23,326 ($998,820)[179] yet Health department officials reported child diets on the three government settlements were grossly deficient in milk, vegetables and fruit.[180] Chronic malnutrition, lack of bedding and a total absence of washing facilities were blamed for infant mortality rates fifteen times the Queensland average; meanwhile the government authorised deductions from endowment accounts to pay child outpatients' fees for local hospitals although access to Queensland's public hospitals was free for other citizens since 1944. From mid-1947 the government retained all endowment due to settlement children under 5 years claiming it provided 'complete maintenance' plus 'luxury food and clothing over and above the ordinary ration'; all supplies for baby welfare centres were reimbursed from child endowment.

By early in 1949 the Queensland government was holding over £7000 ($239,600) in child endowment for mothers on the three settlements. Superintendents were directed to use the endowment for fruit, milk and better clothing, but also for books and equipment for indoor and out door games, which allegedly remained 'the property of the endowed child'.[181] No child or adult was ever informed of such possession. According to the deputy director of Native Affairs endowment was used for radios and refrigerators for dormitories, and he anticipated spending it on playgrounds, recreation halls, parks and swimming pools; in 1951 Cabinet approved £2000 ($51,280) be used from the child endowment of Cherbourg mothers for construction of a child welfare clinic.[182] In 1952 the director admitted reduced government grants placed missions in such a 'desperate position' they were using child endowment to feed and maintain inmates.

Individual accounts were opened for mothers not living on reserves and these were controlled through head office or by rural protectors. As with savings accounts, knowledge of endowment balances and access to withdrawals depended on the discretion of protectors. By 1950 rural endowment accounts totalled almost £18,500 (almost $564,000), with many individual balances over £100 ($3350). At no

178 27 January 1942, Presbyterian Archives, *Aboriginal Mission Correspondence* 1942
179 *Audit Report* 1943/1944.
180 QSA TR254 1D/133 19.9.43.
181 QSA A/55329 30.5.49.
182 QSA A/58865 19.4.51.

time did the department implement any checks of the thumb-printing or signing of withdrawals from Brisbane-based child endowment accounts. Contrary to 'the expressed policy of the Commonwealth government' the Queensland government withheld bank interest due on private endowment accounts. Suggestions by the auditor that a sum should be invested in inscribed stock were ultimately rejected on the grounds that 'it is considered inadvisable for the State to be investing surplus Child Endowment payments, the property of individuals'.[183]

In 1953 the government held £20,000 ($417,600) of endowment for Palm Island mothers and the director confirmed that child endowment should only be spent on children's needs, and 'was not to be utilised to relieve consolidated revenue'. The director said to the superintendent 'you have that much money, you don't know what to do with it' and expressed concern about what might happen 'when the Commonwealth government finds out we are holding that money'. It was decided to use £2500 ($52,200) apiece for construction of buildings for domestic science and manual training;[184] in 1954 another £8000 ($166,240) of Palm Island endowment was used to build a hostel at Aitkenvale near Townsville, and a further £3100 ($57,970) to complete development in 1957.[185] When budget cuts in 1959 reduced baby welfare funds by one-third settlement superintendents were simply instructed to meet the £3000 deficit from their child endowment holdings.[186]

In the 1966/67 financial year the government held endowment of more than £91,500 ($685,665) for mothers on its settlements but released less than half these holdings. During the late 1960s epidemiological studies showed malnutrition on the missions and settlements was the key factor in deaths of 50 per cent of children under three and 85 per cent of children under four. Stillbirths and premature baby deaths were over four times the rate for white babies.[187] During this period (1968-1970) the surplus endowment held by the government totalled $58,988 ($609,655). Endowment was streamed through the Welfare Fund after 1968 and recouped revenue lost when mandatory levies on wages ceased. In the 1970/1971 year Social Security started direct payments of child endowment to Aboriginal mothers and revenue to the Welfare Fund dropped by about half, to around $16,000. This level remained more or less constant to the mid-1970s, suggesting many mothers had not yet gained control of their accounts.[188] No child endowment is listed into the Welfare Fund between 1980/83; the last payment separately identified in the Fund is $5766 ($10,494) for the 1983/84 year.

3.2.2 New South Wales

The *Family Endowment Act 1927 (NSW)* imposed a 3 per cent levy on due wages to establish the Family Endowment Fund; payments to mothers were 5 shillings ($12) per week for each child in families with incomes less than the official 'living wage', plus £13 ($625) per year for each child. Payments could be made to someone other than the direct beneficiary, including guardians of Aboriginal wards. The Aboriginal Protection Board distributed payments to Aboriginal families on stations and reserves, recording the amounts in the Salary Registers after 1922.

After 1930 the Board receipted the endowment of all Aboriginal mothers through a Trust account at the Rural Bank and the *Annual Report* noted that control of endowment 'must result in a considerable saving to the consolidated revenue' in subsidising rations and goods previously supplied free by the government. Endowment guidelines included anything of direct or indirect benefit to the child – clothing, food, bedding, dental and medical treatment, school needs etc. The 1932 *Annual Report* said the increase in administrative work was 'amply' repaid by the saving of public expenditure, calculated at £27,982 ($1.38 million) for 1931.[189]

Reserve managers and rural police were issued with special endowment order books and advised orders could be given to mothers for goods; unspent endowment could be diverted to cover rent owing. Of the £10,114 ($497,810) banked by the Board to early June 1930, only £2438 ($120,000)

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183 QSA TR254 1A/188 1.8.50.

184 QSA A/58879 5.10.53.

185 DAIA 01-001-002.

186 QSA SRS 505-1 Box 91, 23.9.59.

187 Queensland Institute of Medical Research, *Annual Report*, 1970.

188 Figures from the Consultancy Bureau Report give a surplus to the government of $90,159 (around $478,000 today) of unallocated endowment revenue in the decade 1968-1978.

189 *Annual Report* 1931.

was spent on behalf of 300 children,[190] and only five mothers, after 'favourable police reports', received their endowment in cash.

Evidence was given in the 1937 Select Committee Inquiry that many mothers did not receive the endowment benefit. It was asserted endowment was used for other Board commitments, such as construction of substandard housing then leased or sold to Aboriginal people for profit, and that accumulated funds were at times applied for construction and maintenance of station facilities, including managers' homes.[191] The Board had terminated free rations on its reserves and stations to children receiving endowment, a practice the 1940 Public Service Board Review said should cease. In 1940 only 197 or 30 per cent of mothers received endowment directly, the Board retaining the remaining endowment.[192] Child and family endowment income covered over 40 per cent of annual budgets (in 1938 endowment of £21,175 ($1.13 million) was 44 per cent of the budget.[193]) A review of Board management in 1940 recommended 'cleaning up' and reducing the accumulated endowment Trust monies. But when the state program was replaced by the Commonwealth child endowment scheme the following year the new endowment was 'simply credited' to existing Trust accounts.[194]

The Commonwealth agreed that mothers on reserves could be paid through store orders in all but 'approved cases', and gave the Board authority to pool entitlements of children on reserves and missions towards their 'general maintenance, training and education'. However any child rationed by the Board was deemed to be dependent on the state and thereby ineligible for endowment; the Board countered by instructing managers and police to remove eligible children from ration lists and claim the endowment, after which rations could be reinstated and the cost – 2 shillings and 3 pence ($5.40) per half ration – deducted from mothers' weekly endowment.[195] While the state – through the Board – thus recouped the cost of child rations on the reserves, most mothers would have been unaware of the scheme and their reduced endowment entitlements.

After the Commonwealth *Payroll Tax Assessment Act (1941)* required them to contribute a levy on wages provided, which could include meals and accommodation valued at one pound a week, the NSW Graziers Association applied to collect endowment for children living on pastoral stations. Arguing their current outlay for these 'services' for say '20-30 natives' might be six or seven pounds a week ($290-$337, effectively between $10-$16 per person per week) they claimed entitlement to endowment to offset the deficit.[196]

From 1950 endowment was also paid with regard to first-born children. Guidelines issued in 1957 to government officers again affirmed that endowment paid into the Board's Trust Account in the name of the endowee was to be allocated through the endowment order book as vouchers for goods and services for the benefit 'directly or indirectly' of endowed children. A record of credits and debits was recorded daily on separate cards issued to field officers, and kept available for inspection by officers from the Accounts branch. Full cards were returned to head office and replacements issued. If direct payment was approved, head office checked the card and finalised the account, paying the credit balance to the endowee by cheque.[197] The Board retained the authority to receive child endowment payments on behalf of Aboriginal mothers until it was abolished in 1969.

3.2.3 Northern Territory

In the 1945/46 year twelve Northern Territory missions received endowment of £28,152 ($1.2 million) for the 1057 children in their care. Under an arrangement in 1947 to split maintenance costs of children on pastoral stations, managers were paid endowment for the first child and the Territory administration claimed endowment for additional children which was held in trust and from which it paid their maintenance. The 5 shilling endowment was intended to provide benefits in addition to the support pastoralists were providing as part of the discounted wages, and the government suggested

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190 Aboriginal Protection Board. Minute Books. Vol 5, 87.
191 ILC 2006, 41.
192 ILC 2006, 38.
193 McGrath 2004, 9.
194 ILC 2006, 47.
195 Zoe Craven, draft report for ILC submission, 2005, 8.
196 Zoe Craven, draft report for ILC submission, 2005, 9.
197 Zoe Craven, research data – child endowment , 2005, 7.

it should be paid into a special trust fund for the child's benefit, or credited directly to the mother or child's account.[198]

In 1949 the director of Native Affairs in the Northern Territory suggested missions could use endowment on capital works (schools, dormitories, clinics), medical care for mothers and proper diet – all items rightly the responsibility of the government.[199] Given only three missions did any educational or welfare work for children, the director stated it was impossible to certify to the department of Social Security that endowments were legally expended. Yet because missions were not required to account for endowment expenditure he said there were no grounds to recommend payments be terminated.[200]

Endowment was also a boon to stations. In 1952 the director of Social Services admitted there was 'nothing to prevent' stations using the endowment for wages or simply reimbursing costs for basic items they were obliged to provide themselves. He reported: 'Neither the mission station authorities, nor the cattle station managers, are using child endowment payments solely for the benefit of the children in respect of whom it is paid.'[201] By 1959 pastoralists were receiving endowment for 225 children and there was official concern as to the authenticity of some claims, given the movement of families between stations. Periodical checks by patrol officers and quarterly reports by station managers as to how endowment was disbursed did not guarantee the income was properly applied. In 1960 endowment increased to 10 shillings weekly for second or subsequent children and the Territory administration decided from 1961 to reduce its maintenance payments for those children by the same amount.[202]

3.2.4 Western Australia

In 1941 the Graziers Federation Council of Australia applied to the Commonwealth to have all child endowment paid direct to station managers, claiming they were already supporting the children for parents who allegedly were incapable of handling money.[203] The request was denied, the Commonwealth adhering to its policy of paying endowment only to 'detribalised' mothers who were exempt from state controls and did not live on reserves or institutions. In the south the department controlled women's access to endowment by delegating local police protectors as trustees for the mothers to purchase rations for distribution from the bulk endowment income. After 1944 endowment was paid to mothers on government stations as bulk amounts direct to the department. In the first twelve months this brought £3000 ($128,460) for children on southern reserves and a further £4500 ($192,690) for those on settlements and missions – providing almost half the £15,000 outlay for rations and relief for the year.[204] The endowment income allowed the government to open a station at Udialla on the Fitzroy River where staff wages were paid from the endowment, prompting condemnation from the Commonwealth.[205]

After 1948 children on pastoral stations also became eligible for endowment but few mothers were paid direct. Bulk endowment payments were paid to station managers until 1959,[206] providing huge savings as costs of rationing families were now recouped from endowment; patrol officers rarely questioned how the money was applied. Denied any real benefit, families remained trapped in poverty on the stations, often losing custody of their children to the missions to which their entitlement was then paid in full. In 1950 the missions reaped endowment of £12,000 ($366,960) which the director admitted was essential to their survival; endowment was, he said, 'a great saving to the state.'[207] By 1958 it was estimated one quarter of the children in the Kimberley were confined on missions, subsidised through endowment.[208] For those who received it, endowment provided

198 Gray 2006, 31.
199 Haebich 2000, 451
200 Haebich 2000, 451.
201 Gray 2006, 12.
202 Gray 2006, 32.
203 Jebb 2002, 208.
204 Jebb 2002, 209.
205 Jebb 2002, 209.
206 Vestey's owned 5 pastoral stations and received endowment for 65 children in 1950 and 72 in 1960 (Jebb 2002, 230).
207 Jebb 2002, 229.
208 HREOC 1997, 111.

financial independence, paying the same in one week for one child (10 shillings - $15.30) as domestics were paid in a month; a stockman with three children received three times more in endowment than he was paid in wages. Rather than lobby for increased wages the director complained that women's direct control of endowment after 1959 exploited stations and missions. In 1962 endowment revenue to the missions was £31,480 ($537,050) for 1703 children.[209]

3.2.5 South Australia

Evidence for South Australia suggests similar government policies to control individual endowment and access bulk endowment payments as revenue for the missions. Koonibba Lutheran mission did not forward endowment to parents while children were on holidays, until the children were returned to control of the mission.[210] In 1944 the mission did not forward child endowment to an ex-inmate but enlisted the chief protector to alert local police to pressure her to return to the mission.[211] When three large families left Koonibba the missionary contacted the deputy commissioner of Child Endowment arguing they should not be allowed to receive the payment unless they returned their children to the mission school; he refused to forward the money in the hope the families' destitute circumstances would force their return. Threats by local police that the children would be removed forced one family to return.[212] In 1945 it appears only part of endowment owing was paid by the department to a mother in dire need.[213] In 1946 the chief protector agreed to withhold endowment due to a mother at the Finnis Springs mission, as punishment for her refusal to work in the mission laundry.[214] It is not known how much endowment was withheld by the government and the missions, nor for what purposes these sums were expended.

3.2.6 Victoria

There is no reason to assume that Victorian authorities and institutions did not similarly exploit endowment to their own advantage.

3.3 Pensions

3.3.1 Queensland

The state government lobbied for years to have aged, widows, and invalid pensions paid to Aboriginal people confined on missions and settlements. When the Commonwealth government signalled a change in policy in 1959, the director of Native Affairs immediately sought advice on a strategy to have them 'diverted to revenue'. By levying all settlement residents for 'clothing and incidentals', reducing outlays on indigent relief by £2 per person per week in rural areas, and applying for bulk payments as 'institutions' and paying only one-third to individual pension endowees, the department calculated a direct annual profit in 1959 of around £115,064 ($2.08 million).[215] To avoid public condemnation given the dire financial circumstances of missions was well known, the government planned to access the pension revenue by adjusting subsidies to save the state £59,132 ($1.07 million).[216] (In 1961 the director was furious to hear that the northern missions had organised direct pension payments from the Commonwealth.[217])

In 1960 the director said that 'somewhere around £30,000' ($524,400) of the pensions 'goes direct to Revenue'.[218] In 1965 auditors warned there was no provision in the Acts or regulations for 'contributions' from Aboriginal pensioners towards consolidated revenue, a practice which had diverted £38,773 ($659,140) in 1962/63 and £42,323 ($719,490) in 1963/64.[219] But the department successfully argued the practice should continue on the grounds that the Eventide aged homes also intercepted inmates' pensions. In 1965 the department paid only one-third of the pensions (30/6

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209 Haebich 2000, 520.

210 Raynes 2004, 201.

211 Raynes 2004, 129.

212 Raynes 2004, 196,196.

213 Raynes 2004, 146.

214 Raynes 2004, 56.

215 Around £35,568 by appropriating pensions of settlement inmates, £8360 from a levy of 15/- a week for 'clothing and incidentals' supplied, and £71,136 by cutting indigent relief in rural areas by £2 per week per person.

216 QSA TR254 1A/467 17.3.59.

217 QSA SRS 505-1 Box 91 29.3.61

218 QSA TR254 1C/88 12.10.60.

219 QSA A/69729 4.3.65.

weekly) to settlement inmates as 'pocket money' and retained 57/- for the state as maintenance which was 'paid to consolidated revenue'.[220]

3.3.2 New South Wales

In New South Wales Aboriginal people living 'under civilised conditions' were eligible for pensions under the Commonwealth *Invalid and Old Age Pension Act (1908)*. From 1922-34 pensions of station residents were receipted through the Board's Salary Registers. The NSW *Widows Pension Act (1925)* paid £1 a week, plus 10 shillings for each dependent child under 14 years to widows regardless of 'caste' or 'standard of social development'. The Board was registered as warrantee for the pensions, and although managers and field officers were directed to sign up widows it appears few pursued this option. Direct control of pensions was a topic discussed by authorities at the 1937 Welfare Conference, where it was noted pensioners in mainstream institutions received only 40 per cent of their 13 shillings 6 pence ($37) pension. The 1940 Review noted only 12 widows received the pension and 6 of those were paid direct, a procedure reliant on Board approval. Magistrates were empowered to deny the pension if they suspected the allowance was misused or the woman was not of 'good moral character and sober habits'.[221]

The NSW Act was superseded by the Commonwealth *Widows Pension Act (1942)* which retained the same eligibility criteria for Aboriginal widows whose marriages had been formally registered, as did amendments the same year to the *Invalid and Old Age Pension Act*. The Board was empowered to act as trustee for the pensioners, their money paid into the Trust account from where 11 shillings was transferred to consolidated revenue and the remainder given to the pensioner.

The Commonwealth *Unemployment and Sickness Benefits Act (1944)* incorporated earlier legislation for old age, invalid and widows pensions, unemployment, sickness and maternity benefits, restricting Aboriginal entitlement to those whose 'character, standard of intelligence and development' convinced the Director General that the benefit should be paid. The *Social Services Consolidation Act 1947* amalgamated all welfare provision, retaining the exclusions for Aboriginal people under state control deemed not to meet character and social development standards. These restrictions were repealed until 1959, except for those following a 'nomadic or primitive' lifestyle.

3.3.3 Northern Territory

As in Western Australia, missions and pastoral stations received bulk pension payments. There were no competent procedures to ensure these were passed on to the beneficiaries. In 1965 it was said managers at Wave Hill were withholding pensions of £9000 ($143,820).[222]

3.3.4 Western Australia[223]

Within six months of pension availability in 1960 claims were processed for over 660 people bringing an estimated £5000 ($85,000) fortnightly to the Kimberley, a saving for the department which promptly discontinued rationing for towns and missions. On the stations managers were nominated as 'warrantees' for pensioners, initially passing on only 10 shillings and retaining the remaining £9 'for pensioners' maintenance and improvements in accommodation and general welfare.' In 1960 stations in the Kimberley were directed to bank £2 in the name of pensioners; missions similarly passed on only a fraction. Mission authorities in Melbourne retained £9 of the fortnightly pension payment, sending only 10 shillings to the Mowanjum mission. Kalumburu mission kept the whole pension payment.[224]

Because of their conflict of interest town storekeepers were barred from being warrantees for social security payments, but there was no such protection against exploitation by station stores and 1962 regulations against inflating store prices applied only to goods supplied to employees. Many stations not only inflated costs of rations supplied but deducted additional fees for providing stores and amenities. In southern rural areas Native Welfare officers ran a pension bank account for bulk payments, and individual accounts for some pensioners which were subject to audit after 1963. In

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220 QSA TR1320/1 Box 518:1781 M 22.11.65.

221 Zoe Craven, draft report for ILC submission, 2005, 13.

222 Jebb 2002, 264.

223 This section is sourced from Jebb, 2002.

224 Jebb 2002, 256.

1962 and 1966 the department threatened to withhold pensions for elderly people who refused to relocate from Sunday Island and Forrest River, respectively.

In 1963 the pension was £19.10.0 ($331.50) or three times a stockman's wage in the north; yet some bulk-paid stations spent only £4 ($68) fortnightly on pensioner rations. Welfare officers reported many stations retained pensions but provided no improved amenities for pensioners and some stations used pension accounts to pay wages. It was reported pensioners on some stations were barely alive forcing mothers to use limited endowment cash on food and necessities for extended families. After 1964 guidelines for station use of pensions tightened to exclude provision of general housing and 'community uplift'. In 1965 it was alleged large pastoral companies might be withholding pensions on a scale similar to the £9000 ($143,820) said to be held by managers at Wave Hill in the Northern Territory.

Investigations in 1966 by a special magistrate for Social Security revealed one station manager was claiming for a pensioner who had died two years earlier, and for another who had lived elsewhere for almost a year. He said it was still common to use pension income for general station improvements while many pensioners suffered in dire conditions. An investigation in 1967 revealed one station could not account for $9840 ($73,702) deducted from pensions while $2000 had been paid into the station account and a further $5500 had been claimed for freight. Other stations kept no accounts at all to certify allocation of pension monies. The director of Social Security concluded station managers were exploiting the pensions in part because wages were so poor in comparison, and he proposed responsibility for welfare payments be transferred from the Aboriginal to the welfare department.

A full survey of pensioners in 1967 was hampered by managers who refused to allow inspection of their books on legal advice they were trustees for the pensioners, not for the Social Security department. Many pension account books were described as 'very inadequate' or 'carefully doctored'; while the impoverished condition of pensioners generally attested to their failure to benefit from the payments. The district officer in the Kimberley concluded both the stations and the missions were 'making a quid out of pensioners.' It was common practice on the missions to register a nil balance in the name of deceased pensioners rather than pass pension holdings to relatives. The commissioner declined to intervene because the missions kept no individual accounts, processing bulk pension payments through their general accounts.

From 1967 Social Security made direct payments of $9 of the $23.50 pension to 433 recipients, whether on church, government or pastoral properties; most town pensioners received their full pension direct into their accounts. After 1968 Native Welfare officers were instructed not to act as trustees nor to interfere with how these pensioners spent their money. By 1969 all pensions were paid direct to the individual concerned. Compared with non- or underpaid wages, Commonwealth benefits provided the financial independence for people to move to the towns to be near their children and elderly relatives. Her intensive research into these benefits leads Mary Ann Jebb to conclude it was this secure income which allowed pastoral workers to escape their impoverished labouring lives on pastoral stations.

3.3.5 South Australia

In 1941 the chief protector threatened he could notify the Defence department to review one mother's pension, or have her children removed, if she did not comply with directives.[225] Commonwealth criteria were altered slightly in 1947 to allow payment of pensions and the maternity allowance to any person exempt from State controls or meeting a certain standard of 'character, intelligence and social development'. From 1960 aged, widows and invalid pensions were paid to Aborigines controlled by the state. It must be whether these payments were also intercepted by authorities, as happened on Queensland settlements.

3.3.6 Victoria

It is likely state authorities did not pass on the full pension to occupants at Lake Tyers. Investigation must also be made to determine if Aboriginal pensioners in the wider community had full and free access to their entitlements.

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[225] Raynes 2004, page 44.

Summary – Terms of Reference

a. The approximate number of Indigenous workers whose paid labour was controlled by government; measures taken to safeguard them

This category includes child workers, and workers in the pastoral industry and on missions and government settlement, some of whose controlled labour was paid in rations and 'maintenance'.

Queensland: between 4000-5500 pastoral workers annually 1920s-1960s; around 2500 waged workers on missions and settlements in 1979 reduced to 765 in 1986; over 600 girls and women domestics in 1915, around 588 in the late 1930s.
Western Australia: 4000 pastoral workers in 1900; 2300 working in the Kimberley in 1918; 'dependants' also forced to work; most provided substandard food and shelter in lieu of wages; unknown number of child workers and domestics.
Northern Territory: 2500 licensed workers plus 1500 'dependants' in 1919; 1946 survey confirms all dependants work for rations; most provided substandard food and shelter in lieu of wages; unknown number of child workers and domestics.
New South Wales: 300 children sent to work from Warangesda by 1909; 570 girls sent to work between 1916-1928; 400 boys sent to work from Kinchela to the 1970s.
South Australia: 350 girls processed through Colebrook 1943-1972; pastoral workers known to be denied cash or provisions commensurate with their labour.

- Governments in every mainland state and the Territory accumulated evidence of widespread abuses – labour exploitation, physical cruelty and deprivation, sexual assaults.
- Governments told workers in Western Australia, Northern Territory and remote South Australia 'entirely at the mercy' of station managers and employment likened to slavery; worker protection said to be 'impossible' in Queensland also.
- Governments in Queensland, Northern Territory, Western Australia and South Australia knew abuses continued due to lack of workplace inspections to enforce compliance with minimum standards according to regulations including where such minimum provisions were wages in lieu of cash payments.

b. Financial arrangements regarding wages; access by workers to their savings; evidence of fraud; imposition of levies

Governments in every state and the Territory took direct control of child wages; every mainland state and the Territory controlled the earnings of some or most of the Aboriginal workforce.

- Governments (Queensland, Northern Territory, Western Australia, South Australia) were told on many occasions that Aboriginal pastoral workers were essential to the industry but grossly underpaid.
- Governments (Queensland, Northern Territory, South Australia, Western Australia and New South Wales) were told many controlled workers were not paid pocket money or rations in lieu according to regulations
- Governments were warned by auditors or internal investigators that earnings were defrauded by police and officials.
- Governments (Queensland, Northern Territory, Western Australia) were cautioned that accumulations of savings and benefits held in trust indicated people were unaware of their funds or unable to access them.
- Governments (Queensland, Northern Territory) transferred 'unclaimed' savings and deceased estates to revenue.
- Governments (Queensland, New South Wales, Northern Territory) were criticised for wrongful use of bulk trust monies.
- Governments (Queensland, Northern Territory, Western Australia) made deductions (levies) from Aboriginal earnings which were not levied on wages of mainstream workers.

c. Trust funds from earnings, entitlements and enterprise; official transactions; security from fraud and negligence

- Governments (Queensland, Northern Territory, New South Wales, Western Australia) set up trust funds to collect wages paid direct by employers.
- Governments (Queensland, Northern Territory, Western Australia) set up additional trust funds (the APP, APF and Welfare Fund in Queensland; medical benefit funds in Northern Territory and Western Australia).
- Records for Queensland detail frequent complaints and warnings relating to misuse of the trust funds; the practice (between 1933-1970s) of transferring up to 80 per cent of private savings to generate revenue increased the financial distress of account holders.
- Records for Queensland detail continuing negligent and incompetent handling of the Welfare Fund and misuse of its holdings to cover government costs, despite official warnings that the Fund was thereby losing revenue and at times was unable to fulfil its proper requirements.

d. Controls, disbursement and security of federal benefits

- It is known that maternity allowances were intercepted by governments in Queensland and New South Wales and were partly diverted to revenue.
- Commonwealth child endowment was diverted to revenue by governments in Queensland, New South Wales, Western Australia and Northern Territory – in part by distributing only a small amount to endowees, and also by cutting state outlays on rations and support. Benefits to individuals were minimal while state and Territory governments profited.
- Pensions were similarly intercepted for Aboriginal people under state control in Queensland, Northern Territory, Western Australia and New South Wales; these governments again reduced state spending to reflect the Commonwealth income. The Queensland government declared its intention to 'divert' pensions to revenue when it learned in 1959 criteria would be widened to include many Aboriginal people previously denied them.
- Governments knew intercepted Commonwealth endowment and pensions were used as revenue by missions (Queensland, Northern Territory, Western Australia) and by pastoral stations (Northern Territory, Western Australia) thus replacing rather than augmenting current outlays.
- Records for Queensland and Western Australia suggest Commonwealth authorities knew of the misapplication of endowment and pensions but did not introduce procedures to prevent misuse nor to ensure endowees and pensioners received their entitlement as mandated under federal legislation.

e. Previous investigations into financial management

- Audit reports for Queensland detail numerous reservations and criticisms of government controls and management of trust monies. Each state and the Territory holds Audit Reports, including those of dealings on Aboriginal child wages held under mainstream legislation.
- Governments in Queensland, Western Australia, South Australia and Northern Territory and New South Wales hold copies of Reports and Inquiries, including Royal Commissions, which provide valuable evidence of dealings on trust monies.
- It is likely governments have recently undertaken analyses of their exposure to litigation regarding controls and handling of trust monies; any such analyses should be available to those affected by financial controls.

f. Disclosure of evidence, databases, control of evidence

- Records relating to the lives and finances of Aboriginal people controlled by state and federal governments were accumulated without their knowledge or consent; these records were not available to controlled people despite recommendations such oversight would minimise fraud (Queensland, Western Australia).
- A qualified neutral agency should be appointed to regulate access to these record resources to ensure they are fully available to all relevant parties. It is wrong that governments hold the power to dictate what can be seen and known of these matters.

g. Commitments to quantify missing wages and entitlements; responsibility to redress physical and financial sufferings

- The Queensland government spent over $1.5million prior to 2002 compiling evidence for its own defence of legal actions; it has not made this evidence available to the subjects of these records or their descendants.
- Each state and Territory government should be required to produce independent comprehensive audit investigations of controlled wages, savings and entitlements to the same standard of public accountability as any other major financial institution which holds the finances of others in trust.
- An independent eminent arbiter or panel should be appointed to assess the degree of compensation which might redress the physical and financial suffering caused by the failure of governments to scrupulously and expertly deal with monies they took in trust.
- Compensation should be assessed on the same basis as for any other financial institution which fails its professional and legal duties.

h. Mechanisms in other jurisdictions to redress injustices

- In 1992 the United States Senate commissioned a report into more than a century of mismanagement of Indian monies held in trust by federal governments. The Synar Report[226] has formed the basis not only for subsequent pressure in the Senate to achieve justice on this matter but also for court action to the same ends. The District Court of Columbia stated the government will be held to the same standard of accountability as any financial institution and in 2003 it required the government to account for all funds deposited or invested since the trust commenced 1887, including also for deceased beneficiaries.
- Governments of Australian states and the Territory should be held to the same standard of accountability and be liable for the same redress as other major financial institutions.

i. A national forum to 'set the record straight'

- This option should be widely canvassed among Aboriginal people.
- My understanding is that it would be a very valuable component of measures to redress the devaluing, underpayment and withheld finances which characterised government controls of Aboriginal workers and families, and whose effects continue in the unacceptable poverty of today.

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[226] Mike Synar, *Misplaced Trust: The Bureau of Indian Affairs Mismanagement of the Indian Trust Fund*. Seventeenth Report by Committee on Government Operations (HR 102-499, 102d Cong., 2d Sess.) April 1992.