

CHAPTER 4

TRUST AND SAVINGS ACCOUNTS

On 15 November 1955 my father had supposedly withdrawn seven times in that one day. That is unbelievable because any Aboriginal person that lived under that protection act was lucky enough to get one withdrawal. The first entry was for £4 11s. Then the withdrawals were for £3 6s, £13 10s 3d and £5 11s. The last withdrawal on that day was for £25 8s 6d. That was a lot of money in those days. I even saw a withdrawal for £91. My sisters' provident fund accounts – they were 12 and 13 years old – had withdrawals of £6 15s.¹

4.1 Under protection Acts governments put in place measures such as compulsory savings regimes and welfare trust funds, and did not allow Indigenous people to handle their own financial affairs. However, government administration of Indigenous monies failed to ensure that Indigenous people did receive the money they were entitled to and that the savings and trust funds were adequately protected from misappropriation and fraud.

The establishment of trust and savings accounts

4.2 The committee received a substantial amount of information in relation to the funds that existed in Queensland. In other states and the Northern Territory there was much less information available. While some evidence of poor administration of trust accounts is presented in this section, the second part of the chapter deals with the misappropriation and mishandling of Indigenous monies in greater detail.

Queensland

4.3 In 1991 the Queensland Government commissioned The Consultancy Bureau to conduct an investigation into the Aborigines Welfare Fund and the Aboriginal Accounts. The Consultancy Bureau's final report provides an overview of the various trust and savings accounts which were established for the management of Indigenous monies in that state, and how they relate to each other.² The committee has relied on the Consultancy Bureau's final report, as well as other submissions relevant to how the trust and savings accounts operated in Queensland.³

1 Ms Yvonne Butler, *Committee Hansard*, Brisbane, 25 October 2006, p. 22.

2 Queensland Government, *Submission 116A*, The Consultancy Bureau, *Final Report: Investigation of the Aborigines Welfare Fund and the Aboriginal Accounts*, March 2001 (The Consultancy Bureau Report).

3 Dr Ros Kidd, *Submission 49*; and QPILCH, *Submission 50*.

The Queensland Aboriginals Account

4.4 From 1904, regulations provided that protectors were to retain a portion of Aboriginal workers' wages and deposit the money in the workers' names in the Government Bank Account.⁴ The state government policy of the time was that these accounts were the property of the individual, and were to be applied as the individual required for his/her welfare. However, The Consultancy Bureau Report notes that withdrawals from these accounts were tightly circumscribed.⁵

4.5 In 1933 the individual savings bank accounts were closed and consolidated into larger accounts:

The Savings Bank Accounts of individual natives were closed on 31/05/33 and one account covering the operations of Brisbane, and the three settlements of Cherbourg, Palm Island and Woorabinda was opened ...Country native accounts were also transferred to Brisbane on 01/07/33 and covered between 3000-4000 individual accounts supervised by 88 Local Protectors.⁶

4.6 In 1935-36 these two accounts, the so-called 'Brisbane and Settlement Natives' account and the 'Country Natives' account, were combined and subsequently named the 'Queensland Aboriginals Account'.⁷

4.7 The Queensland Government gave the following explanation of the administration of individuals' money within the Queensland Aboriginals Account:

An individual ledger card record was kept for each person who had money banked into this account. This record, known as a Savings Account, showed their name, individual deposits and withdrawals and the balance they had in their savings account.⁸

4.8 The Consultancy Bureau noted that the Queensland Aboriginals Account earned interest from three sources:

- interest on the cash balance of the account held in the Commonwealth Savings Bank;
- through investments made in inscribed stock; and

4 The Consultancy Bureau Report, Attachment A. Information provided to the committee by the Queensland Government states that 60 per cent of a workers' wage was compulsorily saved; see Queensland Government, *Submission 116*, Attachment 7, *Wages and Savings of Indigenous Queenslanders 1897-1972*, July 2001.

5 The Consultancy Bureau Report, p. 10.

6 The Consultancy Bureau Report, p. 11.

7 The Consultancy Bureau Report, p. 11.

8 Queensland Government, *Submission 116*, Attachment 7, *Wages and Savings of Indigenous Queenslanders 1897-1972: History Sheet*.

- from loans made mainly to Hospital Boards.⁹

4.9 The interest earned on the Queensland Aboriginals Account was not always credited to the savings account, but was used in the following ways:¹⁰

- to buy Christmas presents and 'Christmas cheer' for those living on settlements;
- for the general welfare of Aboriginal people; and
- transferred to the 'Aborigines Welfare Fund' (discussed further below).

4.10 In addition to money from individual savings, the Queensland Aboriginals Account contained money from other sources, including Aboriginal Child Endowment Accounts; and the Assisted Persons Estates Trust Account (discussed further below in relation to the Aboriginal Provident Fund).¹¹

4.11 The Consultancy Bureau Report tracks the balance of the Queensland Aboriginals Account from 1933. From 1940, the balance of the Account grew from approximately \$470,000, to reach almost \$2.5 million in 1981. By 1990, the balance of the Account had been reduced to just under \$750,000.¹²

4.12 The committee received conflicting evidence on the current status of the Queensland Aboriginals Account. Queensland Government literature says:

By the early 1990s the savings accounts were closed. All of the balances were distributed and there is now no money in these accounts.

Therefore, there is no money in the Queensland Aboriginals Account which used to hold the savings of Aboriginal workers.¹³

4.13 In contrast, the Queensland Public Interest Law Clearing House (QPILCH) informed the committee that the present status and balance of the Queensland Aboriginals Account is not publicly known.¹⁴

Aboriginal Protection of Property Account

4.14 The 'Aboriginal Protection of Property Account' (the Property Account) was established in 1902 and formalised under regulations in 1904. According to Dr Ros Kidd, the Property Account was initially established to put a stop to the practice of employers avoiding paying the newly introduced minimum wage to employees by

9 The Consultancy Bureau Report, p. 17.

10 The Consultancy Bureau Report, p. 12.

11 The Consultancy Bureau Report, pp 12-13.

12 The Consultancy Bureau Report, pp 13-16.

13 Queensland Government, *Submission 116*, Attachment 7, *Wages and Savings of Indigenous Queenslanders 1897-1972: History Sheet*. Emphasis in original.

14 *Submission 50*, p. 13.

'dumping' workers in remote locations and claiming that they had absconded or died.¹⁵ Under the regulations, the wages of missing or deceased workers were collected and distributed to the workers' relatives. Unclaimed funds were to be used for the general benefit of Aboriginal people.¹⁶ The Property Account later became the 'Assisted Persons Estate Trust Account'.¹⁷

The Aboriginal Provident Fund

4.15 Regulations in 1919 provided for deductions from the wages of Aboriginal workers for an 'Aboriginal Provident Fund' (the Provident Fund) for the relief of Aboriginal workers and their families at times of need or unemployment.¹⁸ According to The Consultancy Bureau Report, the Provident Fund was started as a source of funds from 1921.¹⁹

4.16 Deductions were at a rate of 5 per cent for single men and 2.5 per cent for married men.²⁰ Fund deductions were calculated by the protector and shown on wages sheets which were subsequently forwarded to the head-office for checking. The Provident Fund also received income from interest on loans made from the fund, as well as the interest on the individual savings accounts.²¹

Aborigines Welfare Fund

4.17 In 1939, legislation provided for the establishment of a welfare fund for the general benefit of Aboriginal people. The maintenance of the welfare fund was to be through money earned by the sale of produce from reserves; contributions by Aboriginal people, as prescribed from time to time; unclaimed monies; and such other monies as from time to time are prescribed.²² The Aborigines Welfare Fund (the Welfare Fund) was formally established under that name in 1943, although prior to that time the fund did operate as a special standing fund.²³

4.18 The income sources for the Welfare Fund included:

- deductions of 5-10 per cent of the wages of workers who lived on the settlements, reserves and missions who were employed outside of those settlements;

15 Dr Ros Kidd, *Black Lives, Government Lies*, JT Press, Redcliffe, 2002, p. 36.

16 Dr Ros Kidd, *Submission 49*, p. 14.

17 The Consultancy Bureau Report, p. 26.

18 Dr Ros Kidd, *Submission 49*, p. 14; QPILCH, *Submission 50*, p. 5.

19 The Consultancy Bureau Report, p. 27.

20 Dr Ros Kidd, *Submission 49*, p. 14; QPILCH, *Submission 50*, pp 5 and 14.

21 The Consultancy Bureau Report, p. 27.

22 Subsection 12(9) of *The Aborigines Preservation and Protection Act 1939* (Qld).

23 QPILCH, *Submission 50*, p. 14; The Consultancy Bureau Report, p. 24.

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- deductions of 2.5-5 per cent from the wages of workers who did not reside on the settlements, missions or reserves, which were initially credited to the Provident Fund, and then transferred to the Welfare Fund;
 - income for the sales of produce from Aboriginal reserves;
 - transfers from the Aboriginal Protection of Property Account (money from unclaimed estates) and institutional child endowment;
 - interest earned on funds in the Queensland Aboriginals Account;
 - rents on houses and quarters on settlements; and
 - income from trading enterprises, such as livestock, farming and retail stores.²⁴

4.19 The Consultancy Bureau Report notes that, prior to 1963, sources of income for the Welfare Fund, and disbursements from the Welfare Fund were identified using global descriptions, such as 'purchase of stores', 'wages' and 'relief of natives'.²⁵

4.20 Money disbursed from the Welfare Fund was to be used for:²⁶

- providing relief to indigent Aboriginal people;
- trading enterprises, such as livestock, farming and retail stores; and
- trade training schemes.

4.21 Statutory contributions to the Welfare Fund ceased in 1966.²⁷ However, the Fund continued to operate until 1993 when it was frozen. The Welfare Fund currently holds approximately \$10 million.²⁸

Island Fund

4.22 The Consultancy Bureau Report provides some information on the monies held for people of the Torres Strait.²⁹ In 1912, a separate 'Island Fund' was established and financial administration of the Torres Strait Island communities was separated from other accounts. At the time of the Consultancy Bureau Report all records for the Island Fund were held on Thursday Island. Savings Bank arrangements for Torres Strait Islanders were separate from mainland activities and were conducted through a separate bank account conducted through the Commonwealth Bank in Cairns.

24 QPILCH, *Submission 50*, pp 14-15; The Consultancy Bureau Report, p. 24.

25 The Consultancy Bureau Report, p. 21.

26 QPILCH, *Submission 50*, p. 15; The Consultancy Bureau Report, Attachment 3.

27 QPILCH, *Submission 50*, p. 15.

28 Queensland Government, *Submission 116*, p. 3, and Attachment 7, *Wages and Savings of Indigenous Queenslanders 1897-1972: History Sheet*.

29 The Consultancy Bureau Report, p. 28.

NSW

4.23 In NSW, the government withheld wages from child apprentices, as well as social security entitlements from eligible recipients.

4.24 It appears that from the late 1800s, even before the introduction of protectionist legislation in 1909, that NSW Government was operating a trust account for the wages of the apprentices:

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 1904.³⁰

4.25 In 1923 this interest-bearing Trust account was transferred from the Savings Bank department to the Rural Bank department of the Commonwealth Savings Bank.³¹

4.26 The Indigenous Law Centre (ILC) noted that there appeared to be obligations under the *Audit Act 1902* (NSW) in respect of the administration of the trust accounts:

Regardless of the precise location and nature of the trust account or accounts themselves, it seems clear that the Audit Act on its terms applied to the Board and its officials. This meant obligations to ensure that proper procedures for the deposit and withdrawal of money were followed – and a 'paper trail' for individual transactions was created at the time.³²

4.27 A number of submissions highlighted the lack of information that exists about the administration of the trust funds in NSW. In her submission, Professor Ann McGrath notes that 'little is known of the concrete details of how the trust funds operated' in NSW.³³

Western Australia

4.28 The Aboriginal Legal Service of Western Australia (ALSWA) noted that there was substantial information about trust funds established and administered by the Aborigines Department (and its successors) on behalf of Aboriginal people.³⁴

4.29 From 1910, departmental correspondence indicates that 'trust moneys' received by the Chief Protector on behalf of Aboriginal people was paid into an account in Perth called the 'Colonial Secretary's Aborigines Account'. Money was

30 Dr Ros Kidd, *Submission 49*, p. 20; see also ILC, *Submission 98*, p. 6.

31 ILC, *Submission 98*, p. 6.

32 *Submission 98*, p. 6.

33 *Submission 9*, p. 31; see also Indigenous Law Centre, *Submission 98*, p. 6.

34 ALSWA, *Submission 30*, p. 15.

drawn from this account as a lump sum and distributed to individual savings bank trust accounts which were also managed and monitored by the Chief Protector.³⁵

4.30 In 1922, a second account, the 'Deputy Chief Protector of Aborigines Trust Account' was opened to deal specifically with monies from Aboriginal people in the south-west of the state. Funds were transferred from the Colonial Secretary's Aborigines Account into the new account.³⁶

4.31 By 1919 there were 53 individual trust accounts, with a total balance of £1,155. By 1934 the number of individual accounts had risen to 173, and the total balance was £2,300, with a further £2,400 in Aboriginal wage earners savings invested in government bonds.³⁷ The ALSWA noted that, since many workers in the north-west of the state were not paid wages at all, the money accumulating in the trust accounts must represent payments to workers in the south-west of WA.³⁸

4.32 Dr Ros Kidd also noted that legislation in 1936 established a voluntary 'Aborigines Medical Fund' for station workers. The Aborigines Medical Fund had a fee of £1 annually for permanent workers and their dependants, 10 shillings for trainees and five shillings for casual workers. Where contributions were made to the Aborigines Medical Fund employers were absolved from holding workers compensation insurance.³⁹

Northern Territory

4.33 In the Northern Territory, trust funds for Aboriginal people were implemented from 1913, but not formally provided for in legislation until 1918:

By 1917 there were 481 accounts worth 1,448 pounds; in May 1920, 1,184 pounds of unclaimed money dating back to the inception of the scheme went into consolidated revenue.⁴⁰

4.34 By the 1930s, the amount in the trust fund had risen to over £3,000.⁴¹ According to sources cited by the Castan Centre for Human Rights Law (Castan Centre), trust fund administration was generally poor:

...the relevant government departments made little effort to recover money owed by employers to the Trust Account, and the Trust Account administration generally was very poor. Sums unclaimed after six years reverted into consolidated revenue, and sporadic efforts by Acting

35 ALSWA, *Submission 30B*, p. 27.

36 ALSWA, *Submission 30B*, pp 27-28.

37 ALSWA, *Submission 30B*, p. 28.

38 *Submission 30B*, p. 28.

39 Dr Ros Kidd, *Submission 49*, p. 24.

40 Castan Centre for Human Rights Law, *Submission 11*, p. 13.

41 Dr Ros Kidd, *Submission 49*, p. 23.

Administrator Carrodus and by Cook to have these moneys used for the benefit of Northern Territory Aborigines were successfully resisted by Treasury.⁴²

4.35 Dr Ros Kidd also referred to a medical benefit fund being established in the Northern Territory:

...[the] 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 Treasury.⁴³

South Australia

4.36 In South Australia, it appears that a number of trust funds were established on behalf of Aboriginal people. Dr Cameron Raynes told the committee that:

The Aborigines Department did establish trust accounts for certain Aboriginal people as the need arose. In 1940, the Secretary of the [Board] wrote:

There are a number of accounts at the Savings Bank of South Australia in the joint names of the Chief Protector of Aborigines and the person to whom the money belongs. The accounts have been operated by the Head of the Department and the Accountant as need has arisen.

Most of these accounts contained money received as a result of inheritance, compensation, or as gratuities payable to widows or children of Aboriginal men killed in World War II ... By 1953, there were 45 separate Aboriginal trust funds in existence. They contained £2,375 in total. They were consolidated into one, interest-bearing account...⁴⁴

4.37 In a supplementary submission to the committee, Dr Raynes provided additional notes on 13 trust funds that he had taken when reviewing archival material. Those notes show trust funds being opened for different reasons, including to provide for the children of a particular person; and for the Department to administer a gratuity left to a recently widowed woman. The balance of the account was only referred to in a couple of cases, but the amounts ranged from approximately £22 to more than £250.⁴⁵

42 *Submission 11*, p. 16.

43 *Submission 49*, p. 22.

44 *Submission 8*, p. 4.

45 *Submission 8B*, p. 2.

Victoria

4.38 In Victoria, the Board was able to modify employment contracts such that all or part of an Aboriginal worker's wage could be directed to a third person. In the early years of the protection regime, wages could be directed to the local guardian, who was to use the money for the benefit of the Aboriginal person or their family. In later legislation, wages could be directed to the Secretary of the Board, and subsequently paid into a trust fund. There was also provision for apprentices' wages to be paid to the Inspector of the Board and to have the money placed to the child's credit in a bank.⁴⁶

4.39 The Victorian Stolen Wages Working Group (Wampan Wages) also identified another trust fund, the Aborigines Board Produce Fund, which existed in Victoria. The Aborigines Board Produce Fund held the monies received from the sale of marketable goods produced on reserves.⁴⁷ In 1957, the Aborigines Board Produce Fund became the Aboriginal Welfare Fund:

The Aboriginal Welfare Fund was expressly kept in Treasury. All monies appropriated by Parliament, and all moneys received by the Board were to be paid into the Fund.⁴⁸

4.40 Wampan Wages provided the following information on the terms of these trusts:

The provisions of various Aborigines Acts, and regulations made under those Acts, repeatedly state that certain monies are to be used for the benefit of Aboriginal people. The existence of trust relationships can be inferred from the terms of the legislation, but it is difficult to be more explicit about the terms of such relationships without further research.⁴⁹

Misappropriation and mishandling of Indigenous monies

4.41 The committee received a wide range of evidence relating to the misuse of money which was due to Indigenous people. Misuse of money included misappropriation by governments, fraud by protectors and employers, and non-payment or underpayment of wages by employers.

4.42 Although protection boards, protectors and governments were under obligations to keep proper records and account for all Indigenous monies, these obligations were often not complied with.

46 Wampan Wages, *Submission 84*, pp 4-5.

47 Wampan Wages, *Submission 84*, p. 5.

48 Wampan Wages, *Submission 84*, p. 5.

49 *Submission 84A*, answers to questions on notice, p. 1.

Misappropriation of Indigenous monies

4.43 Much of Dr Ros Kidd's research has focused on the misappropriation of Indigenous monies from trust and savings accounts in Queensland. The committee has relied heavily on Dr Kidd's work, including her recent publication, *Trustees on Trial: Recovering the stolen wages*, which exposes the extent of government mishandling of Indigenous monies in Queensland.⁵⁰ Dr Kidd provided the committee with a number of examples of the misappropriation of Indigenous monies by the Queensland Government, including use of funds in the Aboriginal Protection of Property Account for general departmental administration:

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 [Aboriginal Protection of Property Account] was diverted to the department's Standing account which financed general operations, a confiscation which only ceased in July 1941. 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 [Aboriginal Protection of Property Account] went to the Yarrabah mission as part of the state's 'grant', increased to £1000 (\$4,922) in 1930 for development of the sawmill.⁵¹

4.44 Dr Kidd's research has demonstrated repeated examples of the Indigenous trust funds and savings accounts being used to pay expenses, such as settlement infrastructure and the cost of removing families to reserves.⁵²

4.45 The Consultancy Bureau Report, commissioned by the Queensland Government in 1991, also highlighted that there had been misappropriation of funds from the savings accounts:

There are a number of cases which have been identified of misapplication and misappropriation from the Savings Bank Accounts. Well documented cases exist of misappropriation, however, the lack of adequate control systems in the field probably resulted in a large volume of undetected fraud the quantum of which would be indeterminable today.⁵³

4.46 The committee did not, in relation to other states and the Northern Territory, receive extensive or comprehensive evidence of wholesale government misappropriation of Indigenous trust funds or other monies. There were suggestions that misappropriation of Indigenous funds was not limited to Queensland. For

50 Dr Ros Kidd, *Trustees on Trial: Recovering the stolen wages*, Aboriginal Studies Press, Canberra, 2006.

51 *Submission 49*, pp 14-15.

52 *Submission 49*, pp 13-19.

53 The Consultancy Bureau, *Final Report: Investigation of the Aborigines Welfare Fund and the Aboriginal Accounts*, March 1991, p. 4.

example, in relation to South Australia, Ms Joanna Richardson suggested to the committee that the Board diverted Commonwealth entitlements for its own benefit:

With no, or little, consultation the Aborigines Protection Board and Aborigines Department withheld these monies from the individuals who were entitled to receive the payments. The funds were used by the Aborigines Department to pay to itself rent at rates it determined were payable, to pay medical treatment expenses, to pay for clothes and other necessities (see above) and to pay instalments under hire purchase arrangements.

In the case of rents withheld, the accommodation provided by the Aborigines Department was scandalously substandard, both on and off reserves, and there was no mechanism by which rents were fairly or transparently fixed.⁵⁴

4.47 Dr Fiona Skyring from the ALSWA recommended that a forensic audit be conducted in Western Australia to determine whether misappropriation of funds was an issue in that state:

The mismanagement of trust accounts is also [an] issue here in Western Australia. Again, it has not been nearly as thoroughly researched as it has been in Queensland. I would endorse Dr Ros Kidd's recommendation for a forensic audit to be undertaken because that is what really needs to happen. Similarly, the misappropriation of government benefits such as old age pension, child endowment and maternity allowance...need to be investigated.⁵⁵

4.48 The committee believes that this is an area for further investigation in all states and at federal level in regard to past practices in the Northern Territory.

Fraud

4.49 The protection Boards and the chief protectors were often charged with protecting those in their care against fraud.⁵⁶ Notwithstanding this, the committee received substantial evidence of the vulnerability of Indigenous people to fraud. The committee also received some evidence of fraudulent practices. However, in many cases, the evidence to the committee was of allegations or suggestions of fraud by protectors or employers. To this end, the committee does note the observation of Professor Ann McGrath that:

Due to the piecemeal nature of existing financial records, the lack of substantiating and complementary records renders it almost impossible to detect cases of 'fiddling the books' or to disguise poor record keeping down

54 *Submission 14*, p.6.

55 *Committee Hansard*, Perth, 16 November 2006, p. 10.

56 See, for example, Professor Ann McGrath, *Submission 9*, p. 11, in relation to the NSW Board; Joanna Richardson, *Submission 14*, p. 6, in relation to the South Australian Board; Dr Thalia Anthony, *Submission 17*, p. 8, in relation to the Chief Protector of the Northern Territory.

the line. The detection of accounting malpractice, outright fraud and deception would be difficult.⁵⁷

4.50 In 1991, The Consultancy Bureau Report made the following damning statement about the extent of fraud in the administration of the savings bank accounts in Queensland:

Until 1965, control systems in the Savings Bank were ineffective in guarding against errors, fraud and misappropriation. Many of the clients were illiterate, geographically isolated, members of a (sic) oppressed minority group. Protectors and administrators who were responsible for controlling the accounts were in positions of considerable power over those under their protectorship. Consequently, it is doubtful if any control system could ever have been effective. Large frauds on the Savings Bank were detected from time to time, and the Department admitted that, even in these cases, the extent of the fraud could only be reliably determined by the admissions of the persons involved in the frauds. It is realistic to assume that detected frauds comprised only those which were large enough to draw attention to the perpetrators, or those where the perpetrators were careless in carrying out the fraud. Consequently, it is probable that undetected fraud, misappropriation and misapplication of funds comprised a higher proportion of the transactions than those subsequently proved to be fraudulent.⁵⁸

4.51 From the early 20th century it appears that there was concern in Queensland that the systems for administering Indigenous monies were being defrauded:

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...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...the department disregarded the recommendation that Aboriginal people be given the right to appeal against dubious handling of their accounts.⁵⁹

4.52 The Castan Centre noted how trust account systems in the Northern Territory, like in other states, were vulnerable to fraud:

The Trust Account had the same results for Aboriginal workers as did similar accounts elsewhere in Australia. Trust Account books could be easily falsified. Aboriginal people signed with a cross to withdraw their money. In other cases, 'money was released simply on the say-so of

57 *Submission 9*, p. 27.

58 The Consultancy Bureau, *Final Report: Investigation of the Aborigines Welfare Fund and the Aboriginal Accounts*, March 1991, p. 8.

59 Dr Ros Kidd, *Submission 49*, p. 11.

someone in authority.' Workers did not understand their rights, or how the Trust Account operated.⁶⁰

4.53 The committee also heard from Dr Thalia Anthony that there is circumstantial evidence that there may have been fraud occurring in relation to trust accounts in the Northern Territory:

...there are claims of missing monies in cases where cattle station workers had their wages or benefits put in a trust account. These included monies owed to itinerant drovers, apprentices, social security recipients and, after 1957, wards of the state.⁶¹

4.54 In relation to the Northern Territory, the committee also received evidence of the 'booking down' system where workers had their wages credited to the station store, which sold goods at inflated prices:

...station stores were marked up to 300% over town prices...Despite protectors' awareness of the booking down system, the Chief Protector failed to use his power under the Aboriginals Ordinance which allows for legal proceedings for defrauding of an Aborigine...Government officials were aware of 'booking down', but did not seek to ensure that station prices were kept at market levels. Patrol officer Evans noted that the system 'was open to all kinds of abuse as you can well imagine, and with only one or two visits a year, which was the most that I could make, it was pretty hard to police.'⁶²

4.55 Arnold Franks described for the committee how illiteracy and innumeracy posed a problem for many Indigenous people in being able to know the amounts of money they were signing to withdraw from their accounts:

They get you to sign this and sign that, and you do not know what you are signing. I learnt to read after that.

...If you could not read too well and you had to sign a paper for over £1,000, you needed to sneak someone in with you, some young fella who could read a bit, or you could come out with 10s. If you are like me, with no schooling, you do not know.⁶³

4.56 Professor Ann McGrath also highlighted the challenges for an Indigenous person in safeguarding their accounts from fraud:

It was not possible for wards to check to see if their statements were correct or to check if any errors, malpractice or fraud had occurred. As they were

60 Castan Centre for Human Rights Law, *Submission 11*, p. 13.

61 *Submission 17*, p. 6

62 Dr Thalia Anthony, *Submission 17*, pp 5-6.

63 *Committee Hansard*, Perth, 16 November 2006, pp 8 and 21.

not usually supplied with their own financial details, Aboriginal Trust fund holders were therefore unaware of the total amount owing to them.⁶⁴

Non-payment or underpayment of wages

4.57 By far the most evidence in relation to the mismanagement of Indigenous monies related to the non-payment or underpayment of wages to Indigenous workers. Ms Marjorie Woodrow explained to the committee that she never received her pocket money:

Our money was paid into the government. We never saw no money, any money. We never even saw pocket money. It is in our files that we were paid pocket money to spend. I was 136 miles out of town. How could you have pocket money to spend when you were that far out, for 2½ years, on a property?⁶⁵

4.58 The committee received evidence that in Western Australia workers were routinely not paid wages, a practice condoned by the government:

The records say that there were no wages. The Chief Protector said in 1925 that many Aboriginal people in Western Australia lived in a state of semi-slavery. It was openly acknowledged that many Aboriginal workers, throughout much of the 20th century, were not paid any money at all – and, as we argue in this submission, that system was not only known by the state government but also supported by the state government.⁶⁶

4.59 Mr Alan Griffiths told the committee of the years that he worked and received no wages and only inadequate rations:

I started work in 1944. From 1956 or 1957 we were on wages. From 1944, we were only working for bread, beef, damper and tobacco. We used to get it in the store. When we finished the camp we used to get all our clothes in the shop. In 1957, we were on the payroll – £2 a week. We used to work and book down some clothes, tobacco and stuff in the shop. We used to keep going until a proper holiday. There were a lot of horses in the paddock. We would put on the saddles and pack everything on the horses and we would finish up with £3 or £4 and all the rest of it was food. We used to get rations – two sticks of tobacco, a little bit of flour in the bag, a little bit of sugar, a little bit of tea and a little bit of milk. Every Saturday we used to go out bush hunting our own tucker, beef. We used to go back every Friday on foot – no horses. We used to walk so many miles. We used to go from station to station carting the rations. We used to walk so many miles for no wages, just a stick of tobacco.⁶⁷

64 *Submission 9*, p. 11.

65 Ms Marjorie Woodrow, *Committee Hansard*, Sydney, 27 October 2006, p. 26.

66 Dr Fiona Skyring, ALSWA, *Committee Hansard*, Perth, 16 November 2006, p. 19.

67 *Committee Hansard*, Perth, 16 November 2006, p. 35.

4.60 At the Brisbane hearing, Ms Yvonne Butler explained to the committee what it was like to have to ask to withdraw money from a savings account, a request that was often met with refusal despite there being funds in the account:

You had to go to the police station and, if he was having a good day, he would probably give you a couple of pounds. There were times when he was away, so you just did without. But most of the time it was always, 'You don't have any money in your account.'⁶⁸

4.61 Dr Ros Kidd highlighted that in Queensland the government was well aware of the non-payment of pocket money to workers:

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.⁶⁹

4.62 Dr Susan Greer also informed the committee that, although it was set out in legislation in NSW that apprentices were to be paid their savings at 21, this did not always happen:

...reaching the age of 21 and completing employment contracts did not, despite the provisions of the regulations, automatically result in the transfer of account balances from the Board to the beneficiaries. Indeed, the Correspondence Files of the Aborigines Welfare Board are replete with examples of how the Welfare Board either failed to adequately administer these regulations or dealt with applications in an untimely and unsympathetic manner.

The files indicate that rather than taking the initiative to inform beneficiaries of their entitlements, the onus was on account holders to apply for their funds. Underpinning these practices was an assumption that beneficiaries had knowledge of their entitlements, and the ability to negotiate with the Board for their return, which anecdotal evidence of Aboriginal people caught up in this system would seem to contradict.⁷⁰

4.63 Professor Ann McGrath also explained to the committee that in NSW often apprentices would only discover at the end of their service that their employer had not been making payments to the Board:

68 *Committee Hansard*, Brisbane, 25 October 2006, p. 22; see also Mr Steve Kinnane, *Committee Hansard*, Perth, 16 November 2006, p. 53.

69 *Submission 49*, p. 4.

70 *Submission 42*, pp 4-5.

Correspondence reveals cases where wards requested withdrawals after completing their terms of employment, to find employers had been in arrears or had not paid their wages at all. The Board consequently refused to allow withdrawals.⁷¹

Failure of obligations to keep proper records and account

4.64 Boards and Protectors were under obligations to keep proper records and account for the Indigenous funds that they administered, as well as to protect the interests of account holders. As has been noted earlier in this chapter, the committee received some evidence in relation to NSW and Queensland highlighting that, through negligence or deliberate omission, there was generally poor administration of the accounts and monies of Indigenous people.

4.65 The Indigenous Law Centre (ILC) set out the obligations that existed in NSW:

The Aborigines Protection Act 1909 (NSW) itself, and the regulations made under it, imposed some basic accounting and accountability obligations on the Board and its employees. There was a general statutory duty to protect Aboriginal people 'against injustice, imposition and fraud'. Station managers were required to 'keep daily accounts of all money and supplies received and disposed of, and to furnish to the Board monthly abstracts of the same'.⁷²

4.66 In relation to NSW, Dr Greer noted that there was little surviving evidence that these obligations were upheld:

The legislation/regulations required...regular inspections of the apprentices and their places of employment by police or Board officers, together with a regular audit of the apprentice pocket books, which were required to be signed by the inspector. There is, however, no evidence within the surviving records to indicate that the Boards undertook these procedures either on a comprehensive or regular basis. Given the constant financial difficulties the Boards encountered during their tenure, it is probable that these practices were either not instigated or only on an ad hoc basis. For example, of the surviving pocket books of the apprentices, not one of the books sighted by me has been signed by an inspector, which was a requirement of the regulations.⁷³

4.67 The Queensland Public Interest Law Clearing House (QPILCH) noted that government officials in Queensland were under an obligation to keep a proper account and record of funds handled on behalf of Indigenous people. QPILCH also described the findings of The Consultancy Bureau on its investigation of the accounts in Queensland as 'a wholesale failure to keep proper records and accounts of the wages

71 Professor Ann McGrath, *Submission 9*, p. 25.

72 *Submission 98*, p.50.

73 *Submission 42*, p. 2.

paid to the government by Indigenous workers throughout the history of the legislation.⁷⁴

74 Mr Patrick Hay, counsel instructed by QPILCH, *Committee Hansard*, Brisbane, 27 October 2006.

