

# CHAPTER 6

## PREVIOUS INQUIRIES INTO STOLEN WAGES AND ACCESS TO RECORDS

There has not been a conscious effort by people to access information about stolen wages from what I understand. People access their personal family records because they want to know what happened to their families, and they might find out this information on the way. The big questions that are raised in the terms of reference – how much money; what was done; the whole system, how it was done; and all of those things – we really do not know about. We need research so that we can reconstruct the process of removal, what happened, what management and what protected measures were in there and so on. There is some information in the annual reports, but we need an archived survey...<sup>1</sup>

### **Introduction**

6.1 In some jurisdictions, there have been long-standing concerns about the administration of the finances of Indigenous people under protection Acts. This is evidenced by reports and inquiries in a number of states and territories which have investigated, or at least commented on, the control of labour and wages of Indigenous workers.

6.2 Current investigations into the extent of the issue of stolen wages are reliant on governments providing access to the records that they hold on the administration of Indigenous funds. In some states there has been a concerted effort by government to facilitate access to these records. In other jurisdictions access to records has been tightly controlled by government.

6.3 The first part of the chapter reviews some of the previous investigations that have been conducted into stolen wages. The second part of the chapter looks at the state of records that still exist in relation to the protection Act era, and the access that governments allow affected parties to those records.

### **State and territory investigations into stolen wages**

6.4 The extent and nature of previous investigations into these issues is an area where the committee expected that the state, territory and the Commonwealth governments would have been able to provide assistance. In particular the committee notes that Dr Ros Kidd commented that governments may have undertaken recent analysis on the management of Indigenous money:

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1 Professor Anna Haebich, *Committee Hansard*, Brisbane, 25 October 2006, p. 32.

...[i]t 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.<sup>2</sup>

6.5 As most states, and the Commonwealth, did not make submissions to the inquiry on this issue the committee is grateful to submitters who were able to share their research and to direct the committee to investigations and inquiries. Although some of these inquiries were not primarily about the management of Indigenous monies, they did provide the committee with contemporaneous observations and comments on this issue.

6.6 The committee notes that as a result of the reliance on evidence, other than that available from governments, this section of the report detailing the previous investigations undertaken by states and territories into the management of Indigenous monies is necessarily limited to where others have completed necessary research and have identified relevant material.

6.7 In particular, the committee recognises the work of Dr Ros Kidd in relation to previous investigations undertaken in Queensland into the official management of Indigenous monies in that state. The committee also notes that similar evidence, in the form of audit reports, should exist for other states and the Northern Territory.

### ***Queensland***

6.8 Extensive investigations have occurred in Queensland into the official management of Indigenous monies. From at least the early 1920s, it appears that annual audit reports and public service reports inquired into the operation of the trust and savings accounts in Queensland used to hold Aboriginal wages and savings.

6.9 Reports detailing the Queensland Government's failings of the operation and management of Indigenous monies continued throughout the 20<sup>th</sup> century, culminating in 1991 with the Queensland Government commissioning an independent report on matters including the operation of the Aboriginal Welfare Fund, the Queensland Aboriginal Account and other savings accounts.

6.10 Dr Ros Kidd highlighted a number of key annual audit reports and public service reports which highlighted the mismanagement of Indigenous monies. In 1923, a Queensland Public Service report found that almost half the deductions made by protectors were inaccurate, and recommended that Indigenous people be given the right to appeal against dubious handling of their accounts. This recommendation was ignored.<sup>3</sup>

6.11 Dr Kidd also provided evidence that an investigation undertaken in 1932 found that the 'supervision exercised by the Chief Protector over the natives' banking

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2 *Submission 49*, p. 34.

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

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transactions is totally inadequate'.<sup>4</sup> The same report found that the Aboriginal Provident Fund, which was intended to provide relief for indigent Indigenous people, was in fact being used as an alternative to state revenue to provide for the maintenance of Indigenous people.<sup>5</sup>

6.12 Another report commissioned in 1932 on the operation of Aboriginal settlements found a total of £9756 (\$564,480) expended from the Aboriginal Protection of Property Account for maintenance matters, such as funding for a bridge and the provision of timber for a hospital. In 1941 during an investigation into the Sub-department of Native Affairs, auditors raised the precarious position of the Aboriginal Protection of Property Account, which was in danger of insolvency if claims were made on it by relatives.<sup>6</sup>

6.13 Throughout the 1940s, auditors' reports continued to detail negligence in relation to the handling of Indigenous workers' savings accounts by protectors:

...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.<sup>7</sup>

6.14 Queensland Public Service and auditors' reports throughout the 1960s continued to criticise the accounting systems in place which failed to protect Indigenous accounts from fraud.<sup>8</sup> Audit reports also criticised the Queensland Government's operation of a large cattle business which utilised many Aboriginal reserves. Initially a training scheme, the business did not produce any financial statements for the 25 years it operated from the 1970s to the early 1990s. Profits from the running of the cattle business should have been credited to the Aboriginal Welfare Fund; however, incompetent business practices saw this fund continue to lose money.<sup>9</sup>

6.15 In 1990, the Queensland Minister for Families Services and Aboriginal and Islander Affairs commissioned an independent report (The Consultancy Bureau Report) from The Consultancy Bureau on matters such as the Aboriginal Welfare Fund, the Queensland Aboriginal Account and the savings accounts.<sup>10</sup>

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

5 Dr Ros Kidd, *Submission 49*, p. 15.

6 Dr Ros Kidd, *Submission 49*, p.12.

7 Dr Ros Kidd, *Submission 49*, p. 12.

8 Dr Ros Kidd, *Submission 49*, p. 12.

9 Dr Ros Kidd, *Submission 49*, pp 17-18.

10 QPILCH, *Submission 50*, p. 16.

6.16 The committee acknowledges the assistance of the Queensland Government in providing a copy of The Consultancy Bureau Report.<sup>11</sup>

6.17 The findings of The Consultancy Bureau Report relevant to this inquiry are:

- control systems for the savings accounts were poor and frauds on these accounts were a fairly regular occurrence;
- record systems are poor, and changes in staff resulted in a lack of continuity of knowledge relating to the operations and administrations of the Department of Aboriginal and Islander Affairs (as it was then); and
- sampling confirmed that it was impossible to reconstruct the complete financial history of any individual.<sup>12</sup>

### ***New South Wales***

6.18 In relation to NSW, the Indigenous Law Centre (ILC) drew the committee's attention to two investigations in the late 1930s which considered the official management of Indigenous monies.

6.19 The NSW Legislative Assembly established a Select Committee in 1937 to investigate the administration of the Aborigines Protection Board (the NSW Board). Although the Select Committee lapsed in 1938 before it reported, the minutes of evidence for that inquiry highlight the fact that the operation and management of Indigenous monies by the NSW Board warranted further investigation:

The long term Secretary of the [NSW Board], Arthur Pettitt, admitted to the Select Committee that the Board had allowed 'large sums of money' to accumulate in the Trust account and that some of it had been diverted to general Board expenditure, including homes owned not by Aboriginal families but by the Board. The same committee heard other accounts of suspect and inconsistent practices with the use of child endowment money, in particular as an offset against rations and blankets, or towards Board owned property.<sup>13</sup>

6.20 The ILC summarised the evidence before the Select Committee into the Administration of the NSW Board in the following way:

The picture that emerges from evidence given to the Select Committee in 1937 is of an often authoritarian atmosphere in which corruption could occur, complaint was discouraged and whistleblowers could be punished. Several witnesses referred to the discretionary power exercised by

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11 *Submission 116A*, The Consultancy Bureau, *Final Report: Investigation of the Aborigines Welfare Fund and the Aboriginal Accounts*, March 1991 (The Consultancy Bureau Report).

12 The Consultancy Bureau Report, pp 3-4.

13 ILC, *Submission 98*, Attachment A, pp 28-29.

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managers, for example over the distribution of rations, and how that could be abused.<sup>14</sup>

6.21 The ILC also referred the committee to a report of the Public Service Board written in 1938 and published in 1940.<sup>15</sup> Some of the findings of the Public Service Board included:

- the large accumulation of family endowment funds in the hands of the Aborigines Protection Board;<sup>16</sup> and
- for much of the 1930s rations for Aboriginal people were inadequate and unsatisfactory.<sup>17</sup>

6.22 In addition to the inquiries undertaken in 1937 and 1938, Auditor-General's reports exist in relation to the accounts of both Aboriginal stations and the NSW Board held by the State Records New South Wales:

...the Auditor-General did investigate the accounts kept on particular Stations by managers employed by the Board, as well as audit the accounts of the AWB. State Records NSW, the government's archive and record management agency, holds reports of Inspectors of Public Accounts for the period 1907 to 1930, relating to the Board and a number of specific Aboriginal Stations.<sup>18</sup>

6.23 Evidence received during the inquiry also indicated the existence of a document prepared by the NSW Department of Community Services in 1998 which proposed the establishment of a project to investigate the issue of outstanding Aboriginal Trust Fund balances and to consider implementing a scheme to repay trust fund monies to Aborigines.<sup>19</sup>

### ***Northern Territory***

6.24 In relation to the Northern Territory, submissions directed the committee to a number of previous investigations which are relevant to the management of Indigenous monies in that jurisdiction.

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14 *Submission 98*, Attachment A, pp 48-49.

15 Public Service Board, *Aborigines Protection: Report and Recommendations of the Public Service Board of NSW*, Government Printer, 1940.

16 ILC, *Submission 98*, Attachment A, p. 29.

17 ILC, *Submission 98*, Attachment A, p. 48.

18 ILC, *Submission 98*, Attachment A, p. 54.

19 Australians for Native Title and Reconciliation (ANTaR), *Submission 78*, p. 14; and A. Goodstone, 'Stolen Aboriginal wages', *PIAC Bulletin*, No. 19, June 2004, p. 3. This 1998 document formed the basis of a 2001 draft Cabinet Minute which, although not presented to Cabinet, sought endorsement for the establishment of a scheme to reimburse Aboriginal Trust Funds monies to rightful claimants.

6.25 Dr Ros Kidd noted that evidence given during the 1919 Royal Commission into the Administration of the Northern Territory had revealed the ease with which Trust Funds could be defrauded.<sup>20</sup>

6.26 Dr Thalia Anthony provided a copy of the 1940 report titled *Aboriginal Trust Fund Investigation*. In that report, the Secretary of the Native Affairs Branch observed that the Trust Account, as far as workers employed in the Town Districts were concerned, created work of a redundant and abortive nature.<sup>21</sup>

The objects which the creators of the Account sought to achieve in its early history are somewhat obscure. It would appear that the payment to the Trust Fund by employers of a proportion of wages payable to Aboriginals and half-castes was regarded as a measure to protect 'myall' and unsophisticated employees from exploitation...

A comparison of these conditions with those existing now reveals a marked change, which nullifies, in most part, present policy as a protective measure.

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Practically all natives, whether employed or not, who reside in town centres are now detribalized and sophisticated. They are also keenly aware of their economic work. In fact, they have displayed a tendency to assert themselves in an endeavour to obtain higher wages from their employers, who, in many cases, have acceded to their demands, to retain their services.<sup>22</sup>

6.27 The committee was also directed to the work of anthropologists R M and C H Berndt, who conducted a survey of Aboriginal labour on Northern Territory cattle stations from 1944-1946.<sup>23</sup> Although not a report by the Commonwealth Government, which was the governing body of the Northern Territory at the time, this report would also seem to address the issue of the official management of Indigenous wages.<sup>24</sup>

6.28 In their report, the Berndts noted that one employer considered itself absolved from paying the five shillings per week to Aboriginal employees, provided the cost of supporting the workers' dependants and the aged and infirm on the station exceeded the proposed aggregate amount. This, in turn, led to the employer inflating the number of people considered 'dependants' and underestimating the number of workers

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20 *Submission 49*, p. 22.

21 V.J. White (Secretary, Native Affairs Branch) *Aboriginal Trust Account Investigation*, 12 June 1940, 4-6; National Archives (Darwin): CRS F1, Item 42/40, see cover letter to Patrol Officer Stehlow, District Officer Alice Springs.

22 V.J. White (Secretary, Native Affairs Branch) *Aboriginal Trust Account Investigation*, 12 June 1940, 4-6; National Archives (Darwin): CRS F1, Item 42/40, pp 1-2.

23 See Castan Centre, *Submission 11*, p. 3. The Berndt report was initially suppressed and not published until 1987.

24 Castan Centre, *Submission 11*, p. 16.

employed by the station, a practice which was apparently condoned by the local protector.

### ***Western Australia***

6.29 The Aboriginal Legal Service of WA (ALSWA) noted some investigations which specifically examined the management of Indigenous monies. The committee understands that, in 1965 and 1966, the Commonwealth Government and the Western Australia Government undertook investigations into allegations that station and mission warrantees misappropriated old age pension payments which were intended for Aboriginal people.<sup>25</sup>

6.30 The committee also notes that there have been three Royal Commissions in Western Australia into the treatment and conditions of Indigenous people in that state.<sup>26</sup> Extracts and material cited from the evidence and reports of those Royal Commissions demonstrate that those inquiries related to the broader issue of the condition and treatment of Indigenous Australians in Western Australia.<sup>27</sup> However, to the extent that those Royal Commissions considered the employment and payment of wages and other monies to Indigenous people, the committee considers that those inquiries are relevant to the official management of Indigenous monies in Western Australia. For example, the 1904 Royal Commission gathered evidence that no workers in the north-west of Western Australia were paid wages, despite the fact that, at the time, they comprised the overwhelming majority of workers in the region.<sup>28</sup>

### ***South Australia and Victoria***

6.31 The committee received very little evidence on this matter in relation to South Australia and Victoria. Ms Joanna Richardson informed the committee that there have been no previous investigations in South Australia into the official management of Indigenous monies.<sup>29</sup>

6.32 Wampan Wages (the Victorian Stolen Wages Working Group) stated that it was not aware of any previous investigations by the Victorian Government into the official management of Indigenous wages.<sup>30</sup>

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25 *Submission 30*, p. 16; *Submission 30C*, p. 2.

26 In 1904 there was the 'Royal Commission on the Administration of Aborigines and the condition of the Natives', also known as the Roth Royal Commission. The 'Royal Commission in relation to Condition and Treatment of Aborigines', or the Moseley Royal Commission, was held in 1934. Finally, in 1948 the Bateman Royal Commission was established to investigate into Aboriginal affairs in Western Australia.

27 See Dr Ros Kidd, *Submission 49*, pp 3 and 7; and ALSWA, *Submission 30B*, pp 5, 7, 26 and 29.

28 ALSWA, *Submission 30*, p. 12.

29 *Submission 14*, p. 7; Dr Cameron Rayne in correspondence to the committee also stated that he was not aware of any previous investigations by the South Australian Government.

30 *Submission 84*, p.3.

6.33 The Law Institute of Victoria indicated in its submission that there had been little or no research into the issue of withheld wages, savings or other entitlements in Victoria.<sup>31</sup> Wampan Wages commented that it is currently preparing an application for funding to the Victorian Government to enable it to fully investigate what it described as a 'substantial amount of material' in the state and Commonwealth archives which may be relevant to the issue of control of Indigenous monies in Victoria.<sup>32</sup>

6.34 The committee believes that substantial research is required in South Australia and Victoria in order to review the material currently in archives and determine the nature and extent of previous investigations, if any, into the official management of Indigenous monies.

### **Disclosure of evidence and public access**

6.35 Access to records and financial information is an important issue in the context of stolen wages. Legislation placed an obligation on governments to keep proper records and accounts and often individuals did not know that such records were being kept. For this reason it is important that those who were affected by the protection regimes are able to access their records and see what information is held about them.

6.36 Professor Ann McGrath provided the committee with some general information about the existence of archival records and sources in relation to payments made into trusts (or other accounts) for individuals:

These are available in Commonwealth and State Archival authorities for most of the 20<sup>th</sup> Century, and for more recent decades, they are held by the relevant Commonwealth and state departments administering Community Services and/or Aboriginal affairs. Some states have Indigenous research officers/specialists who can assist with finding guides and tools. In some cases, Data bases have been established, eg [by] the Department of Queensland Aboriginal and Torres Strait Islander Programs (sic) in collaboration with the Queensland State Archives. To cover the twentieth century, a changing range of records from a variety of responsible state and federal departments will require investigation.<sup>33</sup>

6.37 Professor McGrath also advised the committee that other pertinent records would be held by banks or bank archives – for example, the Commonwealth Bank, and other banks in NSW and other states. Further, the Noel Butlin Archives of Business and Labour (at the Australian National University), private company records (for example, the Australian Investment Agency and the Australian Agricultural Company), and a range of other records would provide vital information.<sup>34</sup>

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31 *Submission 94*, p. 1.

32 *Submission 84*, p. 1.

33 *Submission 9A*, p. 2.

34 *Submission 9A*, p. 2.

6.38 Professor McGrath expressed the view that adequate research into the complex arrangements relating to account-keeping 'need to be undertaken by qualified researchers with historical training, working in collaboration with experts in the history of administration, in accounting, book-keeping practices and law'.<sup>35</sup> Further:

Where the answer to key process issues is not clear from the available records, in many cases, (depending on the time period in question) public servants involved in administering the Aboriginal departments or Trust funds could also be consulted. They can be identified by various public lists held in state and Commonwealth Archives.<sup>36</sup>

### *Queensland*

6.39 In Queensland the issue does not appear to be the ability of the public to access records of financial control, but rather the incomplete nature of the records and the complexity of the files, such that individuals are unable to access the entirety of their records.

6.40 The Queensland Government explained the work undertaken in the context of the current reparations offer, and the previous scheme for the reparation of underpaid award wages<sup>37</sup> to maintain records and allow appropriate access:

The Government established a Work and Savings Histories Branch within the former Department of Aboriginal and Torres Strait Islander Policy to support both the under-award wages and reparations process. In addition to this Branch, the Community and Personal Histories Branch was engaged to undertake extensive, highly acclaimed and nationally recognised research and archivist work to connect Indigenous people and communities to government records and to assist in the processing of claims...The Community and Personal Histories Branch has been at the forefront of endeavours to provide access to government records and to educate the broader community about past government control practices.<sup>38</sup>

6.41 Despite these efforts, the committee notes that a number of obstacles remain preventing Indigenous people in Queensland from accessing records which evidence the financial controls that were exercised over them.

6.42 The Consultancy Bureau, in its 1991 report, advised that it would be 'impossible' to reconstruct the complete financial history of any individual, and that consequently, individual claims for wages and savings could not be accommodated.<sup>39</sup>

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35 *Submission 9A*, p. 2.

36 *Submission 9A*, p. 2.

37 The Queensland Government's reparations offer, and the earlier process for the reparations of underpaid award wages, are further discussed in Chapter 7.

38 *Submission 116*, p. 2.

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

The Queensland Government commented that the problems identified in the Consultancy Bureau Report continue today:

...very considerable effort had been put into finding, collating, indexing and putting on microfiche any records that could be found that could be made available. I also understand that that still did not change the conclusion that was reached in 1990 about the extreme difficulty of putting back together the story on a case-by-case basis that would allow the determination on an equitable basis of what might be owed to individuals.<sup>40</sup>

6.43 Two difficulties have been identified when endeavouring to put 'back together the story on a case-by-case basis'. Firstly, records and files have been lost or are missing; and secondly, the complexity and number of records make it difficult to find all information in relation to an individual.

6.44 The Consultancy Bureau report made the following observation about the completeness of financial records for the Aborigines Welfare Fund and the Aboriginal Accounts:

Record systems are poor, and records for a period of some twenty to thirty years from the late 1940s are often missing. Even some comparatively modern material cannot be located.<sup>41</sup>

6.45 The Queensland Government indicated that the government did not hold a full record of the savings accounts as some of these had been lost or destroyed.<sup>42</sup>

6.46 Pastor John Andrews commented on missing records in relation to his family:

My wife's Great Grandparents lived at Tolga on the Atherton Tablelands and grandfather was an Aboriginal Black Tracker for the Police...This old man worked but never saw money but relied on handouts from farmers around who knew them. Where are the records as we are told they do not exist, and where are the wages?

My father in law worked on cattle properties as a stockman drover and my mother in law picked beans and corn to make ends meet but also no records exist. All aboriginal people [were] under the Protection Act but records were few and far between.<sup>43</sup>

6.47 The committee also notes that some witnesses expressed scepticism at the Queensland Government's ability to locate records, suggesting that it was easier for the Government to simply say the records are 'missing'.<sup>44</sup> To this end, Mr Tony

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40 *Committee Hansard*, Brisbane, 25 October 2006, p. 74.

41 The Consultancy Bureau, *Final Report: Investigation of the Aborigines Welfare Fund and the Aboriginal Accounts*, March 1991, p. 9.

42 *Committee Hansard*, Brisbane, 25 October 2006, p. 83.

43 *Submission 40*.

44 See Dr Ros Kidd, *Committee Hansard*, Brisbane, 25 October 2006, p. 6; Mr Bob Weatherall, *Committee Hansard*, Brisbane, 25 October 2006, p. 27.

Woodyatt, Co-ordinator of the Queensland Public Interest Law Clearing House (QPILCH) pointed out the difficulties in trying to find information about an individual in the records:

...there is a mass of records. There are millions of these very complex documents that are these huge folios, ledgers – it was a very complicated accounting system that was employed. In these ledgers there will be one line of a person's name and then the amount that was deducted or whatever, referring to other folios that had the amounts that they had earned over a period; there were payment records and expenditure records. Imagine if people had been working 30 years or more; the records were spread across many, many volumes of books. It is very hard to find those individual records.<sup>45</sup>

6.48 Ms Thurlus Saunders explained her experience of locating records in the archives in Brisbane:

Our family has travelled to Brisbane and spent many hours, days and weeks in the archives searching for information about our family members. It is a lot of work going through the paperwork and would be impossible for people with literacy problems. Going to the archives is straightforward with identification, but the searching is very time consuming and difficult. There are many records to search through.<sup>46</sup>

6.49 Ms Christine Howes of ANTaR Queensland also highlighted for the committee how literacy, and misspelling of names could also be an issue in locating information:

There are also literacy issues for people who are chasing up records. One of the profiles that I wrote in *Koori Mail* was that of Alf Neal from Yarrabah. He showed me some original documentation where he was looking for some other records extended on that. They had been looking at these records and wondering for years why they could not find anything else on them. I noticed that there was an 'e' on the end of the name, and 20 people might have looked at that piece of paper before then and never noticed there was an 'e'. There can be different spellings. Many of these elderly people did not have that schooling.<sup>47</sup>

6.50 Dr Ros Kidd provided an indication of the extent of the material available in Queensland, indicating that all the material for her research had been obtained from the files and records of the Department of Native Affairs (and its successors):

The administrative records, which I looked through, are full of finances, because controlling people's money was one of the major focuses of controlling people...So all of the material in my book, if you get a chance just to flick through the figures in it, is available on the administrative files.

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45 *Committee Hansard*, Brisbane, 25 October 2006, p. 15.

46 *Submission 22*, p. 2.

47 *Committee Hansard*, Sydney, 27 October 2006, p. 50.

I did not go into the files that are retained by Treasury, for instance, which would have another dimension, but the finances of the department, the budgeting of the department, is all on files that I looked at.<sup>48</sup>

### *New South Wales*

6.51 The Government has also taken steps to index and locate records of financial controls that were exercised over Indigenous people living in NSW. The Government has established two research services to assist with the indexing and organisation of records and databases to assist with the Aboriginal Trust Fund Repayment (ATFR) Scheme.<sup>49</sup>

The Department of Aboriginal Affairs employs 3 indexing officers, a senior indexing officer and the Manager of the [ATFR Scheme] and Family Records Unit. The Department is also responsible for ongoing indexing of the Aborigines Welfare Board records and for maintaining various databases and searching these databases for each Trust Fund claim.

State Records contribute a research service staffed by Aboriginal people to provide evidence from archival records in their collection to support claims made under the [ATFR] Scheme.<sup>50</sup>

6.52 The NSW Stolen Wages Working Group provided information on a number of guides and resources published by the State Records of NSW and the NSW Department of Indigenous Affairs to assist people in locating records and information relevant to the stolen wages issue.<sup>51</sup>

6.53 State Records of NSW has created an 'Archives in Brief' document which outlines access arrangements to Aboriginal records.<sup>52</sup> The Brief states that most state records are open to public access once they are 30 years old; however, records that contain sensitive information are closed for a longer period. In order to access closed records of the Aborigines Welfare Fund, an application needs to be made to the Department of Aboriginal Affairs. The committee was also informed that, where a person makes a claim under the NSW, ATFR Scheme records relevant to the assessment of monies owed are provided to the claimant.<sup>53</sup>

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48 *Committee Hansard*, Brisbane, 25 October 2006, p. 4.

49 The NSW Government's Aboriginal Trust Fund Repayment Scheme is discussed in Chapter 7.

50 *Submission 92*, p. 3.

51 *Submission 91*, p. 12, see in particular the State Records of NSW, *Guide to New South Wales State Archives relating to Aboriginal people*, available at: <http://www.records.nsw.gov.au/publications/aboriginalguide/aboriginalguidetoc.htm>, accessed 29 November 2006.

52 State Records of NSW, *Archives in Brief 78 – Access to Aboriginal records*, available at [http://www.records.nsw.gov.au/archives/archives\\_in\\_brief\\_78\\_2139.asp](http://www.records.nsw.gov.au/archives/archives_in_brief_78_2139.asp), accessed 21 November 2006.

53 PIAC, *Submission 76*, p. 13.

6.54 The committee notes the high praise given to staff at State Record New South Wales by Dr Susan Greer who assured the committee that, if records existed, the staff would be able to find them.<sup>54</sup> However, as in Queensland, one of the hurdles to a person accessing their financial records in NSW is the fact that many records are missing, or may not have been created in the first place.

6.55 Ms Charmaine Smith from Public Interest Advocacy Centre (PIAC) stated that PIAC had noticed 'inconsistencies' in the availability of records:

We have noticed that there have been considerable inconsistencies in the documents that are available...With the Cootamundra girls training home, I think there are better maintained records that have survived in that institution, but even then Valerie Linow, for example, has a number of sisters who also went through Cootamundra and there are still quite significant differences in the number of documents that we have received in relation to each sister when you would think that they might have been similarly maintained. I have noticed that the documents that have survived from Kinchela boys training home are considerably fewer than we have for Cootamundra. I have clients who have had employment arranged for them through the board and worked on stations and missions who do not have documents at all.<sup>55</sup>

6.56 The NSW Stolen Wages Working Group provided the committee with the following information on where some of the 'gaps' in the records exist:

...the accounting records substantially do not exist post 1934, after the Accountant, Chief Secretary's office took over the accounting role from the Secretary of the Aborigines Protection Board; and the correspondence files relate substantially to the Aborigines Welfare Board, and contain only a limited number of pieces of correspondence that predate 1949.<sup>56</sup>

6.57 The NSW Stolen Wages Working Group also identified two other issues that hampered public access to the records:

- new material is constantly becoming available, so there is a need to keep checking to see if additional material has been found since the database was last revised; and
- records were not necessarily collated in a way that facilitates the sorts of investigations that are now being made by Aboriginal people and those conducting inquiries.<sup>57</sup>

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54 *Committee Hansard*, Sydney, 27 October 2006, p. 44.

55 *Committee Hansard*, Sydney, 27 October 2006, p. 19.

56 *Submission 91*, p. 5.

57 *Submission 91*, p. 5.

### *Western Australia*

6.58 In relation to Western Australian files, Professor Anna Haebich provided the following summary:

...there are three main sets [of records]: staff records, which were disposed of after a couple of years and so there are not very many of them left; the administrative records; and also the personal records. There are not very many of them left. The records are controlled by the Department of Indigenous Affairs. A lot are held at the State Records Office. The Department of Indigenous Affairs has a vetting process for administrative files, so, if you want to look at them, you apply and then maybe three weeks or even longer after that you get to see the file. The personal files of course are restricted to access by the family of the person the file addresses, and they have to have written permission from that person.<sup>58</sup>

6.59 Professor Haebich described the records held in Western Australia as 'more tattered and disconnected' than those in Queensland.<sup>59</sup>

6.60 Access to Western Australian personal files is through application to the Family Information Records Bureau at the Western Australian Department of Community Development.<sup>60</sup> Many of the administrative archival files which are housed at the State Records Office of WA have restricted access; however the application process is open to general researchers and to those preparing expert evidence for native title litigation. Access to the administrative archival files is managed by the Department of Indigenous Affairs (DIA).<sup>61</sup>

6.61 In this context, the committee notes the significant efforts of the ALSWA during the course of this inquiry to obtain access to restricted DIA archival files and provide them as evidence to the committee.<sup>62</sup>

6.62 The ALSWA also referred to a pattern of archival destruction in WA:

Recent research into the records of the Aborigines Department and its successors shows that of the 15,400 personal dossier files created between 1926 and 1959 in relation to Aboriginal individuals and families...about 21% were deliberately destroyed. These records would likely have contained, among other material, information about the Department's management of individual trust accounts, the person's employment history and any real or personal property the Chief Protector held in trust for the person who was the subject of the file.

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58 *Committee Hansard*, Brisbane, 25 October 2006, p. 31.

59 *Committee Hansard*, Brisbane, 25 October 2006, p. 31.

60 ALSWA, *Submission 30B*, p. 42.

61 ALSWA, *Submission 30*, p. 19.

62 See further *Submission 30C*.

...During the same period, from 1926 to 1959, approximately 55% of the administrative files created by the Department were destroyed. The selection of these files suggested it was more than routine culling, since the list of destroyed files contained 'both provocative and potentially important titles for contemporary areas of research'.<sup>63</sup>

6.63 Mr Steve Kinnane has researched the destruction of files in WA and indicated that he did not believe that the destruction was a deliberate attempt by the Aborigines Department (or its successors) to avoid future claims that may be brought in relation to stolen wages, but rather was aimed at protecting employers:

I do not personally believe that they were deliberately destroyed on the basis that there may be future interest in a claim. I do not think that people believed that Indigenous community members would eventually be delving into these files or seeing what was written on them. I think, though, that often files, particularly files dealing with cohabitation or with complaints against employers, were destroyed.

There was a culture, if you like, that came out from reading a large number of files...and the culture that comes across is that the department was reluctant to pursue any complaints that Indigenous employees had against their employers. Often, those kinds of files dealing with employment were destroyed. I have no proof to say that they were destroyed for that reason, but I would say that there was a culture of not wishing to rock the boat as far as dealing with white employers went.<sup>64</sup>

### ***South Australia***

6.64 The committee received very few submissions in relation to the disclosure of evidence and public access to records in South Australia. However, it appears that while extensive archival records do exist in relation to the management of Indigenous monies in South Australia, there are obstacles to accessing that information.

6.65 The committee was informed that in South Australia there is one particular series of records, GRG 52/1 –*the correspondence of the Aborigines Department, 1868-1962* (the GRG 52/1 records), which is 'the most important record group relating to Aboriginal people in South Australia'.<sup>65</sup> The file is one of 93 record groups which relate to the running of the Aborigines Department in South Australia.

6.66 The GRG 52/1 records contain the correspondence of the SA Aborigines Department, including correspondence from the Crown Solicitor as well as information on the trust funds for Indigenous monies that existed in South Australia. While there are a number of other files which might be relevant to the number of workers employed on Point Pearce and Point McLeay Stations, according to Dr

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63 *Submission 30*, pp 5-6.

64 *Committee Hansard*, Perth, 16 November 2006, p. 50.

65 Dr Cameron Raynes, *Committee Hansard*, Perth, 16 November 2006, p. 3.

Cameron Raynes, the GRG 52/1 records contain 'virtually everything' the committee would need to answer the issues in relation to South Australia in the Terms of Reference.<sup>66</sup>

6.67 However, this potentially rich resource of information has been rendered 'all but useless' due to a specific referral process instigated by the Department of Aboriginal affairs for anyone requesting access to the GRG 52/1 records:

This department then vets the file for any material subject to legal professional privilege, and advises their CEO accordingly. The CEO then informs the Attorney-General and then a decision is made to either allow or deny access to the file.

As a result, it now takes many months to access any item within GRG 52/1. Worse still, the items can only be accessed on a one-by-one basis, making extensive research and the ability to 'browse' through the material completely impossible.<sup>67</sup>

6.68 Ms Joanna Richardson also outlined the difficulties in accessing records in South Australia:

It is very difficult to access the records of the Aborigines Protection Board and Aborigines Department held by the South Australian Government. The difficulty is twofold: firstly, detailed indexing of the vast materials of the Aborigines Protection Board and Aborigines Department (and associated government departments) is not complete, therefore it is not clear what material is available; secondly, restrictions have been placed on access to documents by the present government, especially those which might be described as 'sensitive' from a litigious perspective.<sup>68</sup>

### ***Northern Territory***

6.69 The committee received very few submissions in relation to the Northern Territory on the issues of disclosure and public access to records. On this point, the committee notes the submission of the NT Working Women's Centre:

We are unaware of...even how Indigenous women in the NT may be able to access records showing any money owing to them.<sup>69</sup>

6.70 Dr Thalia Anthony explained that there is a scarcity of records relating to the wages of cattle station workers in the Northern Territory. The records that do exist are predominantly station ledgers, which are held in the National Archives in Canberra

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66 *Committee Hansard*, Perth, 16 November 2006, pp 5-6.

67 Dr Cameron Raynes, *Submission 8*, p. 6.

68 *Submission 14*, p. 7.

69 *Submission 10*, p. 1.

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and Darwin. However, there is not a comprehensive Commonwealth record of individuals' names with ledgers and entitlements.<sup>70</sup>

### *Victoria*

6.71 Wampan Wages commented that there is a substantial volume of material held in state and Commonwealth archives which may be relevant to the issue of control of Indigenous wages in Victoria.<sup>71</sup> Mr Joel Wright from Wampan Wages stated:

...the Victorian Public Record Office has gone through its records, its archives, and, through a project which was done about six years ago called My Heart is Breaking, looked at all of the administrative records relating to the Board for Protection of Aborigines and certainly a whole range of correspondence and administrative records in relation to Aboriginal people on reserves. As part of that project, the Public Record Office of Victoria has established a specific Indigenous archive containing all of those records, which include examples of wages paid to people for particular work performed on reserves. That represents a huge body of documentation that we are identifying primarily as one of the sources that needs to be researched and investigated with respect to the terms of reference for the stolen wages.

...

Certainly there is an indication that there is a bulk of evidence that exists there but we are also of the understanding that there are elements of information and evidence that exist in the National Archives which, within our research terms of reference, we have identified as one of the areas that we would want to investigate.<sup>72</sup>

6.72 According to Wampan Wages, there are currently no measures in place to disclose evidence of historical financial controls to affected Indigenous families;<sup>73</sup> however, Mr Wright informed the committee that access to archives is available in Victoria.<sup>74</sup> As indicated previously, Wampan Wages is developing a proposal for funding to enable it to research material in the archives.

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70 *Committee Hansard*, Sydney, 27 October 2006, pp 12-13 and 15. For more information on records held by the National Archives of Australia, and information on accessing these records see National Archives of Australia, *Indigenous Records*, at [http://www.naa.gov.au/the\\_collection/indigenous\\_records.html](http://www.naa.gov.au/the_collection/indigenous_records.html), accessed 22 November 2006.

71 *Submission 84*, p. 1.

72 *Committee Hansard*, Canberra, 28 November 2006, p. 7.

73 *Submission 84*, p. 3.

74 *Committee Hansard*, Canberra, 28 November 2006, p. 10.

6.73 The committee notes the National Archives of Australia has produced a number of guides and fact sheets in relation to the Indigenous Records that it holds.<sup>75</sup> The Koori Records Unit of the Public Record Office Victoria is also responsible for improving the accessibility of Aboriginal records held by the Victorian Government.<sup>76</sup> Until comprehensive research is done to determine the extent of the materials held, these two repositories would probably be the starting point for an individual wanting to access records that may exist about the financial controls to which Victorian Aboriginal people were subjected.

### ***Commonwealth***

6.74 The committee received some evidence in relation to access to Commonwealth archives. Professor Ann McGrath explained that some records in the National Archives of Australia are not available to the public:

...a lot of the [records] apparently require some sort of conservation so they are not actually available to the public and, because a lot of them contain personal names, they are also not open. It would take several weeks and you would have to ask for each individual file. Certainly, in terms of getting the facts and getting the information, it would be very valuable to researchers to have more open access to these records, of course taking into account the privacy that is required. There has been a lot of blocking and gatekeeping right around Australia, both at the state and federal levels. That is one of the reasons Australians do not have this knowledge. PhD students cannot get to the sources. Historians do not do this research because they cannot get the evidence. It is blocked.<sup>77</sup>

6.75 In a response to a question on notice from the committee with respect to what files and records held by the Commonwealth Government may be relevant to investigating the stolen wages issue, FaCSIA informed the committee that:

In the time available, FaCSIA has not conducted a comprehensive search to determine the nature and scope of any material it may hold. It is therefore not possible to readily estimate what material, if any, is held by the department that could possibly be relevant to the Committee's inquiry. The department has an extensive amount of historical material, primarily held in the National Archives. Any research into this material would require specialist skills and a substantial diversion of resources. A comprehensive

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75 See National Archives of Australia, *Indigenous Records*, at [http://www.naa.gov.au/the\\_collection/indigenous\\_records.html](http://www.naa.gov.au/the_collection/indigenous_records.html), accessed 22 November 2006. Records of Indigenous people in Victoria are held in the National Archives because the Victorian Government handed over responsibility for Aboriginal Affairs to the Commonwealth Government in 1975.

76 See, Public Record Office Victoria, Koori Records Unit, at <http://www.prov.vic.gov.au/about/kru/default.asp>, accessed 22 November 2006.

77 *Committee Hansard*, Canberra, 28 November 2006, p. 13.

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response would require information to be sought by the Committee from all appropriate agencies.<sup>78</sup>

6.76 At the Canberra hearing, a representative from FaCSIA told the committee that it is willing to investigate substantive stolen wages claims but that a broad investigation into the issue has not been justified to date:

We are bound as much as anyone to the requirements and regulations that Archives operates under, but clearly we would have access, as departmental officers, to any records which are the responsibility of our department or its predecessors. We have always been ready to investigate any substantive claims that have come to us about these issues where they fall within our responsibilities. In recent years we have not had any, and, where they have occurred in the recent past, where we have sought to go to the substance of the matters they have not been forthcoming.

On that basis, we did not feel it was sustainable to divert substantial resources away from Indigenous business to go spec-hunting across the range of possible sources in that regard. Clearly, the Commonwealth had responsibility for the Territory up until the late seventies, and there may be some basis for looking into that history, but we have not received any claims that warranted us seeking to investigate those particular historical circumstances. On that basis, we have not been able to justify doing a broad investigation, because we did not have a basis to know where to look or what to look for, given the wealth of material that probably sits in archival sources.<sup>79</sup>

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78 *Submission 126*, p. 2.

79 *Committee Hansard*, Canberra, 28 November 2006, p. 18.

