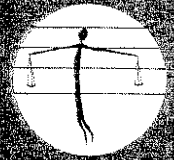




ADDITIONAL INFORMATION RELATING TO THE INDIGENOUS STOLEN WAGES INQUIRY

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Published pursuant to the decision of the committee on 20 April 2007 to table correspondence from the Aboriginal Legal Service of Western Australia, dated 26 March 2007, as additional material relating to the inquiry provided adverse references to individual pastoralists were removed.



26 March 2007

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Dear Secretary

Re: Unfinished business: Indigenous stolen wages

In our evidence at the Stolen Wages Inquiry hearings in Perth on 18 November 2006, and in the further submission subsequently prepared by ALSWA historian Fiona Skyring, we referred to information on archival files in the Department of Indigenous Affairs (DIA) collection which we considered would be relevant to the Inquiry. We were unable to present this information to the Senate Committee because DIA maintained the files were 'closed' and refused our application to access them. We told the Committee that we had sought access under FOI procedures, and included copies of the correspondence relating to those applications in our supplementary submission in November 2006.

After the Senate Committee delivered their report on 6 December, DIA released the 'closed' files to us. All of these documents were edited by DIA, with most of the name references blanked out and pages removed from the files. In addition to deliberate editing, the archival file on the 1965 investigations into administration of Social Services payments in the Kimberley was incorrectly photocopied and the second volume of that file not included at all in the records released to ALSWA. It was not until recently that we received adequate copies of these files, 'Social Services. Pensions – general', Consignment 3412, NDG 33/3/1a and 33/3/1b. The first volume of this file contains information directly relevant to the Inquiry's terms

of reference, and we consider that it is of such importance that the Senate Committee should be aware of the details of this archival record. Another file released by DIA under FOI procedures, titled 'Bank accounts with District Officer as trustee for natives', contains information that adds to the history of the operation of trust accounts for Aboriginal people in Western Australia.

The additional information and copies from the archival files are included in the attached document prepared by Fiona Skyring. Because the files were not released by DIA until December 2006, we were unable to present this information to the Senate Committee before the Inquiry was completed. We hope that it may now be accepted by the Committee as a significant, if belated, addition to the Inquiry into Stolen Wages.

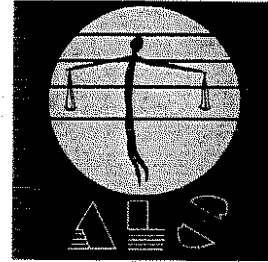
On behalf of ALSWA staff and the Executive Committee, I would like to thank the Senate Committee for the opportunity to participate in the Inquiry into Stolen Wages. Once again, I would also like to express our sincere appreciation to Corrs Chambers Westgarth, Perth office, for their work and generous support for ALSWA's submissions to the Inquiry into Stolen Wages. I also thank them for their kind permission to submit to the Senate Committee copies of correspondence in relation to the FOI applications.

Yours sincerely



Dennis Eggington

Chief Executive Officer



Senate Legal and Constitutional Affairs Committee: Inquiry into Stolen Wages

Further information from the Aboriginal Legal Service Of WA Inc. (ALSWA), March 2007

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1. The 1965/ 66 investigations into administration of Social Services payments to Aboriginal people in the Kimberley.

As stated in previous ALSWA submissions, we were particularly interested to review a restricted access archival file in relation to investigations undertaken in 1965 and 1966 into the administration of Commonwealth entitlements in the Kimberley. Now that DIA have released the file, the information can be presented to the Senate Committee. Copies of documents from this file are included at Attachment 1.

A circular from the Department of Native Welfare to its officers in the Northern District (Kimberley) in August 1960 illustrates the level of trust the Department placed in those acting as warrantees for Aboriginal pensioners. The circular outlined the ‘suggested break up of the money’ in relation to the age pension, then worth £9.10.0 per fortnight. As the first document in Attachment 1 shows, more than half the value of the pension was expected to be deducted for ‘board or stores, meat, etc.’ The note from the Commissioner

for Native Welfare which accompanied the circular suggested that it was a guide only, and that, 'You may find it suitable for adaption for use in your own district after local modifications have been incorporated.'¹ What is clear is that Aboriginal pensioners themselves had no involvement in decisions about how their pension payments were to be administered. It seemed their only discretionary spending was the pocket money component of 30/- to £2 for 'pictures, sweets, tobacco etc.'

Correspondence including a list of warrantees in the Kimberley in December 1960 suggested that once a warrantee was appointed to administer Commonwealth payments on behalf of Aboriginal pensioners, the warrantee had substantial latitude as to how the money would be distributed. Indeed, the Native Welfare Department did not know the method of payment to pensioners once the Social Services cheques were given to the warrantees. The Kimberley District Officer wrote that,

Without inquiry from individual warrantees the method of payment cannot be assessed as the information is not contained in the Notification of Grant.²

Out of eighteen warrantees listed, under the column titled 'method monies received', the response was 'not known' in all but one instance.³ A copy of this correspondence, dated 29 December 1960, is included in Attachment 1. As you will see, all of the names of the warrantees have been blanked out by DIA in their editing of the record. This editing by DIA limits our ability to identify those individuals responsible for maladministration of pension payments, which is detailed later in the archival file.

¹ / SROWA, Consignment 3412, NDG 33/3/1a, 'Social Services. Pensions – general', from Commissioner to District Welfare Officer, Derby, 25 July 1960.

² / *Ibid.*, 29 December 1960 from District Welfare Officer – Northern to the Commissioner of Native Welfare.

³ / *Ibid.*

The next document copied in Attachment 1 is a report by Special Magistrate Davies to the Director of Social Services, dated 19 May 1965. This ten page report details the results of his survey of Aboriginal pensioners on Karunjie, Mt Hart, Flora Valley, Ruby Plains, Cherrabun, Calwynyardah, Noonkanbah and Fossil Downs stations, and at Mowanjum and Forrest River missions. At ██████ for instance, the manager ██████ lived in Wyndham rather than at the station because the ██████ homestead was filthy and dilapidated. Magistrate Davies was impressed with ██████, 'a quietly spoken ██████', and appointed him warrantee for the seven age pensioners then resident at ██████. This was despite the fact that ██████ did not actually live at the station and told Davies that he could not initially provide full food rations to the pensioners. Nor was the store established, so the pensioners had no where to spend their 'pocket money' component. Davies suggested that ██████ hold the money 'for the present', thereby retaining the entire amount of each pension payment for Aboriginal people at ██████ ██████ was to ensure that he,

should only debit against pension funds, the actual cost of goods supplied to pensioners and the balance should be retained in a separate trust account for the provision of housing and other lasting benefits.⁴

At the time of the survey over twenty people - pensioners, workers and their families - lived in a camp which consisted of five tents, an iron hut and 'native style camps' (presumably makeshift humpies). At ██████ and at other stations in the Kimberley, the Social Services Department expected that a proportion of individual pension payments would be used to improve accommodation on the stations. But it was clear that the Department did not intend that Aboriginal people would own these new dwellings that were paid for with their pension cheques. In effect, the expenditure of Aboriginal pension funds on housing added to the property of the leaseholders. Davies wrote that pension

⁴ / *Ibid.*, 19 May 1965, report by M.E. Davies, Special Magistrate, to Director.

arrears, the balance in pensioners' accounts after pocket money and expenses were deducted, could 'finance a pensioners' housing project at [REDACTED]'. Mowanjum mission was the only place visited on Davies' May 1965 survey where the owners, in this case the mission authorities, paid for the construction of an ablutions block themselves, and did not use pension funds to do so. Subsequent reports on the archival file showed that across stations in the Kimberley, money that accumulated in Aboriginal pensioners' accounts was regularly used to fund construction on the stations, and it seemed this was a policy encouraged by the Social Services Department. No where, though, were Aboriginal pensioners then granted ownership of the iron huts and dwellings built with their money.

Special Magistrate Davies seemed satisfied that iron huts and bough shelters, with no ablution blocks or toilets, were good enough as housing for Aboriginal pensioners on the stations he visited in the Kimberley. The provision of beds and mattresses for pensioners at Flora Valley station in the east Kimberley prompted him to describe the accommodation as 'excellent'. Davies was critical, however, of conditions at [REDACTED]. He described the accommodation as 'non-existent', and noted that 'there was little decent clothing in the camp'. The manager of the station, [REDACTED], claimed that a full food ration was issued to each of the nine pensioners every Saturday, but Davies did not believe him. In the station camp the only rations available were of tea, sugar, flour and meat. Although the station owner [REDACTED] was warrantee for the pensioners at [REDACTED], Davies was unconvinced by [REDACTED]'s promises to provide adequate living conditions for the Aboriginal people whose pension payments he managed. Davies commented that [REDACTED] 'had done nothing, except keep them alive.' He identified overpayments of approximately £600 in Social Service cheques to the station for pensioners who had either died or moved (£200 of which was due to [REDACTED] who had relocated to [REDACTED] mission). Davies accused [REDACTED], who lived in Melbourne, of overcharging for food rations and wrote in his report that,

I have ascertained that the weekly rations claimed to be issued to the pensioners [which Davies himself did not believe were in fact being issued] can be purchased retail in Derby at a cost of £2.14.7. Allowing a further 2/- per lb for meat it means that food alone is charged at £4.14.7 per week which is out of all proportion to other stations in more remote areas.⁵

Davies' general comment after his 1965 survey was that Aboriginal pensioners on 'good stations' benefited from the provision of Commonwealth Social Services payments. He continued,

but those whose tribal customs require them to live in areas where the station management has no real interest in them, still continue in the same primitive way as they have done for many years. Furthermore, as they know no other way, they are quite content and even happy with this mode of living. Without guidance neither they, nor the generation that follows them, will gain any appreciation of the value of a pension payment or what comforts it can provide, and the pension money will continue to be absorbed by the stations.⁶

In a further report by Davies, in July 1965, [REDACTED] station was again the subject of Departmental scrutiny. This report contained evidence of misappropriation of pension money by the station owner, [REDACTED]. Over £9,900 in pension cheques were paid to [REDACTED] between January 1962 and April 1964, but the five pensioners on the station reported that they did not receive any 'pocket money.' There were no built dwellings, toilets or ablution blocks, and pensioners did not receive blankets or clothing. Their food rations consisted of flour, sugar, tea, salt meat, tobacco and 'the bones and offal of one beast killed periodically.' The Social Service Department did not believe that these conditions were worth the £6.0.5 per pensioner per week that [REDACTED] debited from their pension payments,

⁵ / *Ibid.*

⁶ / *Ibid.*

an extraordinary amount given that the pension was only £6 per week.⁷ A copy of this report is in Attachment 1.

Although in his July 1965 report, Davies wrote that he would 'follow up' on the 'unsatisfactory' state of affairs which existed at [REDACTED], there is nothing on the archival file to suggest that Aboriginal pensioners anywhere in the Kimberley were ever compensated for non-payment of the pension cheques collected on their behalf by warrantees. Nor were Aboriginal pensioners re-imbursed for overcharging against their pension accounts. The Social Services Department knew from their own investigations that these abuses occurred, but did not pursue criminal action against warrantees who were clearly misusing their position. In the case of [REDACTED] station, rather than prosecute the leaseholders, the Department of Social Services suspended payments to pensioners on the station for a period of roughly 12 months, from 1964 to 1965.⁸

The solution proposed by the Director of Social Services to address the widespread irregularities in the expenditure of pension monies by warrantees was to transfer responsibility for pension payments to the State Department of Native Welfare. The Director acknowledged that 'some of the Agents [warrantees] appointed are not exercising their trust as the department intended'. He claimed that although he was concerned with the situation uncovered by various investigations, the Commonwealth Department of Social Services had neither the resources nor the legal duty to police pension payments on behalf of Aboriginal people.⁹

⁷ / *Ibid.*, 1 July 1965, Special Magistrate Davies to Director.

⁸ / *Ibid.*

⁹ / *Ibid.*, 2 July 1965 from F W Humphreys, Director, to Gare, Commissioner of Native Welfare.

A further report from Special Magistrate Davies attached to Humphries' letter showed that abuses were serious. At [REDACTED] station, owned by [REDACTED], the leaseholders collected pensions on behalf of five Aboriginal people. These pensioners were paid pocket money of only 10/- out of a weekly pension rate of £6, and were charged £4.15.0 per week for food. There were no toilet or ablution facilities, and the five pensioners were housed in what was euphemistically called a 'dining room'. Davies described it as 'disgustingly filthy'. The cost of building this room was claimed by the station owners to be over £700. On 9 April 1964, £700 had been transferred from the account holding the Aboriginal pension monies into the station account. There was no indication on the file that the £700 was ever re-paid to the five Aboriginal pensioners, or that they were granted ownership of the building. At [REDACTED] the station management acted as warrantee for twelve pensioners, and by November 1962 had accumulated a total of £1,680 in pension funds. Aboriginal pensioners were paid 10/- per week and were charged £8 per month for food rations which Davies described as 'meagre'. There were no houses, toilets or ablution facilities. By 1965, the station had built iron huts for the pensioners, but Davies' report did not indicate how much they cost nor whether they became the property of the pensioners. It seemed the money for the construction had come from the pension funds, because their average account balances were less than what the savings in 1962 would suggest. A copy of the 2 July 1965 letter from Humphries, and the attached report from Davies is included in Attachment 1.

Native Welfare Commissioner Gare agreed with the Social Services Director that the Native Welfare Department, with additional staff, would be well placed to ensure that Aboriginal pensioners on stations were receiving the full benefit of their Commonwealth payments. But Gare's solution to dealing with warrantees who refused to comply with Departmental guidelines for pension expenditure was to recommend cancelling the pension for the Aboriginal person, rather than prosecuting the warrantee. A copy of this correspondence, dated 3 August 1965, is at Attachment 1. A few months later, the Commissioner for Native Welfare wrote again to the Director of Social Services reversing his initial agreement to undertake the policing and supervision role. Although Gare promised to continue to 'do what it can in the interests of native pensioners', the Native Welfare Department did not have the staff to take on the increased workload. A copy of

this letter, dated 22 February 1966, is attached. Also included in Attachment 1 is a March 1966 circular to all Field Officers from the Commissioner, informing them of Crown Law advice that the Social Services Department 'cannot legally require a warrantee to account for pension monies.' This was based on the opinion that the warrantee was an agent of the pensioner, not of the Social Services Department. Combined with the ongoing attempts by the Commonwealth department to transfer responsibility for administration of the warrantee system to the State department, the Crown Law advice left Aboriginal pensioners particularly vulnerable to unscrupulous warrantees, who seemed from the reports to be numerous.

A further report from Davies, based on a survey of stations undertaken between May and June 1966, showed that abuses in relation to pension payments continued. Even for the stations where Davies considered conditions to be satisfactory, Aboriginal pensioners only received pocket money amounts of cash from their Commonwealth cheques, and the 'building funds' for the stations came from the pensioners' accounts. Davies was critical of the situation at [REDACTED], where there were three pensioners. The man received pocket money of \$4 per week (from a total pension payment by this time of \$13 per week) and two women received \$2 each. There were no houses, toilets or ablution blocks. Rations consisted of bread and meat, and occasional issues of soap. From the pocket money component, the three pensioners were expected to purchase food and clothing. Station owner [REDACTED] reported that he held credit balances for the pensioners, but did not know what the amounts were. A new homestead was being built for [REDACTED] and his family, and he promised that one house was already available for the pensioners and others would be built 'as finance permits.' Davies recommended keeping the station 'under surveillance.' At [REDACTED] station the manager Mr [REDACTED] was warrantee for four Aboriginal pensioners. [REDACTED] was holding \$416 in pension money and intended to provide buildings from this fund 'as soon as possible'. He also held \$895 in credit in the accounts

for individual pensioners. A previous credit balance had been misappropriated by the previous station warrantee, Mrs [REDACTED]. Davies wrote, 'It appears that she moved out taking pension money with her, but to date, has not been located.'¹⁰ There was no indication on the file that this theft was reported to the police.

At [REDACTED] station, owned by Mr and Mrs [REDACTED], Davies reported that,

In the 9 months they have been at [REDACTED] there is nothing to see for the pension money paid [for four Aboriginal pensioners] during this period and there is a credit balance of only \$20 (approx.). I have made the position very clear so far as this Department is concerned and entertain no doubt that Mr and Mrs [REDACTED] fully understand.¹¹

Pensioners on [REDACTED] received only \$1 per week pocket money which 'just disappears', according to Davies. On [REDACTED] station the nine pensioners there received no cash at all, and instead the manager, Mr [REDACTED], distributed lollies and biscuits transported from Perth.

Davies' investigation into the accounting at [REDACTED] revealed that a total of \$30,268 in Commonwealth benefits had been paid to the station since September 1960. Given the records of the cost of food and clothing provided to the Aboriginal pensioners, there should have been a balance of \$12,691 in the pensioners' account. But there was only \$2,851, which represented a deficit of \$9,840. Davies questioned [REDACTED] on this unaccounted loss, and was told that under the instructions of the station owner, Mr [REDACTED], \$2,000 each year was transferred from the pensioners' account into the station account. When Davies then questioned [REDACTED], who was [REDACTED],

He openly admitted that this amount of \$2,000.00 was transferred to the station account annually and believed that the station was entitled to this for having the

¹⁰ / *Ibid.*, Report 10 June 1966, by Special Magistrate Davies to Director Humphries, Social Services.

¹¹ / *Ibid.*

pensioners on the property and participating in the [pension] scheme. [redacted] station had led him to believe this. I explained the Department's position in this matter and assured him that the station was quite entitled to be paid for any services rendered to the pensioners and re-imbursed for any expenditure incurred on their behalf, but that any balance of pension money remaining after all expenses had been met should be retained in the pensioner's account and used wherever possible to provide additional comforts and lasting benefits for them. I believe Mr [redacted] now understands the position.¹²

Davies offered to calculate for [redacted] 'the amount the station had received to which it was not entitled and inform him of this figure to enable him to make the necessary refund to the pensioner's account.' Davies agreed that freight was an additional charge, and he eventually arrived at a figure of \$5,500 to be refunded to the pensioners. But nothing on the file indicated that this refund was paid.

Davies' general comment at the end of his 1966 report included the assessment that,

I believe that [redacted] station has set the pattern and this name comes up on each survey with monotonous regularity. As the home station of [redacted], they are almost a law unto themselves and it has not been possible to do a thorough survey of the position here to date. I believe that [redacted] station presents a problem but I was unable to go in on this visit as the station management was away.¹³

In forwarding the report to the Commissioner of Native Welfare, Director Humphries again complained that 'there is evidence that the handling of pensioners' money by the Stations is far from satisfactory.' Humphries wanted the Native Welfare Department to assume warrantee responsibilities for all Aboriginal pensioners, and offered to discuss the matter further. A copy of this report is included in Attachment 1. In a response to the Director on 1 July 1966, the Commissioner of Native Welfare again refused to 'increase

¹² / *Ibid.*

¹³ / *Ibid.*

our commitments in respect of pension payments to natives.' Comments on Davies' report from K. Johnson, Native Welfare Superintendent of the Northern Division (Kimberley) showed that officers of the Department were inclined to be forgiving in relation to warrantees' misuse of Aboriginal pension funds. A copy of Johnson's letter from 8 August 1966 is at Attachment 1. Even after the further damning report from Davies, none of the warrantees were prosecuted. Both the Commonwealth and State authorities preferred to 'negotiate' over instances of the arbitrary transfer of Aboriginal pension money into station accounts, and they fully endorsed the use of pension money for station improvements.

Special Magistrate Davies undertook a further survey of Kimberley stations in August 1966, and a copy of this eleven page report is included in Attachment 1 (unfortunately the copy quality is rather poor). The familiar themes were repeated. Station warrantees such as the manager at █████ continued to control Aboriginal pension money as they saw fit. Davies wrote that, for the fourteen age pensioners on the station,

█████ management have always taken the view that once the pocket money has been paid, [in █████ case \$4 per week out of a \$13 pension cheque] the balance of the pension is payable to the station as re-imburement for the maintenance provided. Apart from the one book record showing the pocket money paid, no records have been kept. After some discussion with Mr █████, he agreed that in future he would keep a record of the items of food and clothing actually issued to the pensioners and that this record would be available to this Department for inspection on any subsequent visit. I realise of course, that without supporting vouchers, these records will be of little value, but it does at least indicate a willingness to co-operate – a step in the right direction.¹⁴

At █████ station, the seven pensioners received minimal amounts of pocket money - \$2 per week for men and \$1 per week for women – and three meals a day from the station kitchen. The manager, Mr █████, did not keep any records of how the balances of the pensioner's payments were spent. At █████ station pensioners received \$4

¹⁴ / *Ibid.*, report from Special Magistrate Davies to Acting Director, 19 August to 2 September 1966.

pocket money per week and the 'balance of the pension is retained for food, clothing, maintenance and housing.' Again, Aboriginal pension money in part funded the improvements to the station at ██████████

██████████ station came in for considerable criticism from Davies. The Aboriginal pensioners at the station camp were unable to say how much they received in pocket money, and there was no cash in evidence at their camp, nor was there any food. The only records kept by the manager, Mr ██████████, related to the monthly issue of pocket money. He stated the weekly rations consisted of flour, tea, sugar and meat. Davies wrote that,

I challenged Mr ██████████ on the cost of maintaining the pensioners compared to the payment the station was receiving from this Department and stated that my investigation indicated they were not receiving anywhere near the value of their pensions. I then told him that until a satisfactory ration scale was provided and I could be assured that there would be an improvement in clothing issues, I would not be prepared to recommend the grant of ██████████ and ██████████ ██████████ and would recommend ... [line of text at the bottom of the page not included in photocopy] ... Mr ██████████ stated that without the authority of the owner, he neither could nor would vary the existing procedure. He further stated, however, that he would be in Derby within 3 or 4 weeks and would discuss a suitable ration scale and means of keeping records with the Department of Native Welfare and would submit a report to the owner Mr ██████████ for his decision.¹⁵

Davies was convinced that ██████████ would refuse to authorize any changes, so suggested the alternative of moving pensioners from ██████████ to a place where they could 'receive the value of their pensions.' Again, the option of prosecuting station warrantees was not even considered by the Department.

On ██████████ station, owned by ██████████, pension funds were used to build housing. At ██████████ station the manager's wife, Mrs ██████████, could provide no records justifying the 'maintenance' cost of \$528 per pensioner. Pocket money was paid at the very low rate of

¹⁵ / *Ibid.*

\$10 'about' every three months, and ██████████ had no idea of the balance of the account in ██████████ into which the pension cheques were paid. Despite the widespread inadequacies, Davies concluded that the situation was improving and that,

I found every station I visited anxious to co-operate and books will now be kept for the first time in a number of instances.¹⁶

The final document included in Attachment 1 is a letter from the Director General of Social Services in September 1966 to the Department's Director in Western Australia. This letter announced the increase in 'pocket money' payments to \$9 per fortnight, out of a total pension payment of \$26 per fortnight, for Aboriginal pensioners on stations and missions. The Department was still not satisfied with the situation on pastoral stations in Western Australia, where average 'pocket money' payments were so low. But it seemed that the Department had simply given up on trying to make station warrantees account for their expenditure of the Social Services cheques they received on behalf of Aboriginal pensioners. Although the Department's own investigations showed that misappropriation of pension money, overcharging for goods, complete lack of account keeping and in some instances theft by warrantees were ongoing problems on stations in the Kimberley, it seemed these problems were too hard for the Department to tackle. With only one Departmental officer assigned to oversee the administration of pension payments in the entire region, the continuation of abuses by warrantees was almost predictable. Rather than increase Departmental staff to enforce proper accounting by warrantees for pension payments to Aboriginal people, the Director General wrote,

It is accordingly desired that the rate of pocket money be increased to \$4.50 a week (\$9 per fortnight) on all pastoral properties in your State on which this rate does not already apply and that the balance of the pension then be accepted as being wholly absorbed for the pensioners' maintenance. When this has been done it will only be

¹⁶ / *Ibid.*

necessary on future visits to the properties for our Departmental officer to satisfy himself that the pensioners are receiving the correct rate of pocket money.¹⁷

The second volume of the file NDG 33/3/1 contains no reference to further investigations.¹⁸ It appears, from the records at least, that the continued surveillance of and action in relation to certain pastoral stations recommended by Special Magistrate Davies in his previous reports was not implemented. There is no mention on the file of Aboriginal pensioners being re-imbursed for the money taken from their accounts in clear instances of overcharging for goods. There was nothing on the second volume of the archival file to suggest that [REDACTED] and other station owners stopped their practice of simply appropriating most of the money from pension payments to Aboriginal people, or that they paid back the money. In a specific instance, the records do not indicate whether or not [REDACTED] ever repaid the \$5,500 to the nine Aboriginal pensioners on [REDACTED] station, a figure which Davies acknowledged was a generous under-estimation for what [REDACTED] probably owed the pensioners. And the numerous 'housing projects' for Aboriginal pensioners in stations across the Kimberley, which were paid for with their own pension cheques, remained the property of the stations. Not only did Aboriginal pensioners effectively pay for these improvements to the pastoral stations, they were then charged board for living in them.

2. Trust funds

In our previous submissions to the Senate Inquiry, ALSWA argued that substantial research remains to be done into the Western Australian government's administration of trust accounts on behalf of Aboriginal people. The lack of transparency in the

¹⁷ / *Ibid.*, 7 September 1966 from L.B. Hamilton, Director General to Director of Social Services, Perth.

¹⁸ / SROWA, Consignment 3412, NDG 33/3/1b, 'Social Services. Pensions – general'

Department's administration of trust funds was illustrated in ALSWA's second submission to the Inquiry. It was clear that although trust accounts were supposed to be established and administered for the benefit of Aboriginal account holders, the account holders themselves had no control over the way this was done. The Department made decisions about when and what account transactions were made, and although the money in the accounts was earned by Aboriginal people they could not withdraw the money without permission from the Department. Further, there were no practical avenues for appeal against Departmental decisions about the operation of the trust accounts. The evidence available to ALSWA at the time of preparing the submissions to the Senate Committee Inquiry included information on the operation of trust accounts up to about 1940. Archival files released by DIA under FOI procedures late last year, after ALSWA completed submissions to the Inquiry, showed that similar practices in relation to the trust accounts continued through to the early 1950s at least.

A file titled 'Bank accounts with D.O. [District Officer] as trustee for natives' (Cons 993, 1950/ 0151) contains documents which indicate that the Department's control over the personal finances of Aboriginal Western Australians was considerable. In the early 1950s, this control was implemented with the co-operation of the Commonwealth Bank. The first document on the file is dated 21 July 1950, and is a letter from Stanley Middleton, then Commissioner for Native Affairs, to the Department's District Officer in Narrogin. A copy of this letter is at Attachment 2, but since the copy made by DIA is rather dark and in parts difficult to read, excerpts are quoted here. In the letter Middleton stated that,

the Department is holding approximately 500 passbooks for natives who are out in employment and where the Department collects a proportion of the wages for general safekeeping. It is suggested that these passbooks opened by yourself, be retained for particular purpose, such purpose being better known to yourself.¹⁹

¹⁹ / 21 July 1950 from Commissioner for native Affairs to District officer, Narrogin, in SROWA, Consignment 993, 1950/0151, 'Bank accounts with District Officer as Trustee for Natives'

It seemed that in 1950 Commissioner Middleton sought to introduce another kind of trust account for Aboriginal people, accounts which were to be managed by the Department, for a 'particular purpose'; that of 'accumulating funds for the purchase of land and houses.' The wording of his letter suggests that these accounts would be in addition to the trust accounts already held by the Department. But the nature of the financial relationship between the Department and Aboriginal people under the Native Administration Act would not change. With these new accounts proposed by Middleton the Department would retain control over money earned by Aboriginal people. The Aboriginal account holders would keep the passbooks and make deposits themselves, but the local District Officer was 'the only person who could make and authorise withdrawals.' The Department secured the co-operation of the Commonwealth Bank to implement this system whereby Aboriginal people had to apply through the Department to access their own money. Middleton wrote that,

Arrangements have been made with the Central Commonwealth Savings Bank for permission to allow District Officers for Native Affairs to open Trust Accounts under the name of "District Officer for Native Affairs for the ... (particular district concerned) as trustee for ... (particular native concerned)."²⁰

Subsequent correspondence on the archival file did not indicate how many new trust accounts for Aboriginal people were opened by the Department in the early 1950s. On this file there were numerous letters, dated 1951 through to 1952, from the Commissioner to the District Officer in Narrogin enclosing cheques or savings bank books for Aboriginal people in that district. In many of the letters the pass books were called 'CNS School Bank Pass Books', although it is unclear from the file why the pass books referred to 'school'. It was unlikely that the account holders were school children, since one of the account holders either worked or was incarcerated in Fremantle prison. The names of the account

²⁰ / *Ibid*

holders have been blanked out in DIA's editing of the file, and some pages have been removed entirely.

Through to the early 1950s at least, officers of the Department controlled every withdrawal from each trust account. The records so far researched show that for the 1940s and 1950s these accounts numbered between 500 and 560 (see p 42 of *Further submission from ALSWA*, October 2006, as well as Attachment 2 to this submission). Given the dates, some of the trust account holders may still be alive (young workers in 1952 would be in their late 60s or early 70s by now). The administration of trust accounts by the Western Australian government on behalf of Aboriginal people is a topic requiring urgent investigation.

3. Archival file request and subsequent FOI application – appeal against the FOI decision of the Dept of Indigenous Affairs (DIA)

In our previous written submissions and in evidence before the Senate Committee last November, ALSWA referred to efforts to access information on archival files in the DIA collection which we considered would be relevant to the Senate Committee's terms of reference for the Inquiry. DIA had refused our application for access to certain files which they categorized as 'closed' and we pursued the matter under Freedom of Information legislation. The documents were eventually released to us by DIA, but too late for inclusion in our submissions to the Senate Committee Inquiry. As well, copies of these archival files were released by DIA with names blanked out and some pages removed altogether. The pages were, according to DIA, 'edited to protect third party information' and an example of the stated reasons is included in Attachment 3 to this submission.

With the assistance of Corrs Chambers Westgarth, Perth office, we then appealed the decision by DIA to remove and/or edit certain documents on the files. The letter of appeal, stating our reasons, is at Attachment 3. In response, DIA overturned our appeal, and upheld their original decision to edit the archival files to the extent they did. Their reasons for doing so are outlined in a fax from DIA, dated 16 January 2007, a copy of which is

included in Attachment 3. We hope that DIA will eventually be directed by the relevant Minister in the Western Australian government to follow the first recommendation in the Senate Committee's report and,

facilitate unhindered access to their archives for Indigenous people and their representatives for the purposes of researching the Indigenous stolen wages issue as a matter of urgency.²¹

Fiona Skyring

27 March 2007

²¹ / Senate Standing Committee on Legal and Constitutional Affairs, *Unfinished business: Indigenous stolen wages*, Parliament House, Canberra, 2006, p xiii.