

**Submission to the Legal and Constitutional References [Senate] Committee:
Inquiry into Indigenous workers whose paid labour was controlled by Government
[Stolen Wages]**

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Position: Co-director of The Centre for Public Culture and Ideas, ARC Research Fellow, Orbicom UNESCO Chair in Communications.

Research: I currently hold an ARC fellowship for my project titled 'Imagining Assimilation' which will produce the first comprehensive cultural history of assimilation in Australia.

Please note:

- This is a brief submission due to the fact that I have been ill for some time and have pressing work commitments to attend to between now and the submission date.

- I have the following included as attachments to the submission:
Anna Haebich Stolen wages and consequential Indigenous poverty: a national issue, Kathleen Fitzpatrick Lecture, University of Melbourne, 2004

Anna Haebich Annotated Chronological List of Statutes Referring to Aboriginal People in Western Australia 1841-1972, Griffith University, 2005 [statutes re employment in bold print]

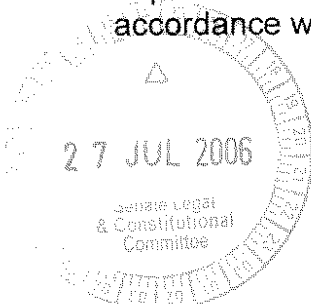
- References in the submission are as follows:
Anna Haebich For their own good Aborigines and government in the south west of Western Australia 1900-1040, UWA Press, 1988.

Anna Haebich Broken Circles Fragmenting Aboriginal families 1800-2000, Fremantle Arts Centre Press, 2000

- The following comments refer to the south of Western Australia, unless otherwise indicated.

a. Approximate numbers of Indigenous workers whose paid labour was controlled by government?

- Under the 1905 Aborigines Act all Aboriginal natives' (Aboriginal girls under 14 not to be employed), 'half-caste' women and 'half-caste' males under 14 were to be employed under agreement or permit issued through local honorary protectors. This remained in force until the system was repealed in 1954.
- In practice most employers preferred not to employ Aboriginal workers in accordance with the law [1913 only 59 Aborigines employed under permits in



South [Haebich 1988, 121] and the Aborigines Department and its successors made only sporadic efforts to enforce the employment system.

- There was no requirement to pay those employed in this way and in the north few Aboriginal workers were paid, however in the south the practice from the early 1900s was to pay Aboriginal workers.
- It would be difficult to calculate for the south of Western Australia the numbers of Aboriginal people whose paid work was controlled by the government. Nevertheless the WA government should be called on to examine all its records [files, annual reports etc] to provide suitable estimates.
- Note that controls over the range of Aboriginal workers were extended under the 1936 Act and fees were introduced in 1918 to cover costs of administering permit and agreement system. This drew further opposition from employers.

Who protected Aboriginal workers from abuse, mistreatment in work?

- Most Aboriginal workers in WA were not able to join unions due to opposition from unionists. Their labour was to be protected through provisions of the 1905 Aborigines Act as follows:
 - Aboriginal natives' (Aboriginal girls under 14 not to be employed), 'half-caste' women and 'half-caste' males under 14 to be employed under agreement or permit through protector
 - employers and protectors to negotiate terms and conditions of employment (i.e. sufficient rations, clothing, blankets and medical attention)
 - protectors, with police, to supervise employment
 - protectors to initiate proceedings against employers or employees breaking terms of permits or agreements.
 - employers to enter into recognisance with protector to move any Aboriginal, male 'half-caste' under 16 or any female 'half-caste' could be moved (eg by employer)
- There are few examples of department officers initiating legal action to protect Aboriginal workers although there are examples of Aboriginal workers taking action against employers on their own behalf. [see Haebich 1988 121-2] Sometimes employers manipulated the permit/ agreement system to force Aboriginal workers escaping cruel treatment to return. [Haebich 1988 122]
- There was little protection for young people sent out to work under government supervision from missions and government settlements. Aboriginal girls often became pregnant, some to their employers. In 1931 thirty young women workers were sent back to Moore River pregnant. [Haebich 1988, p 313]

- The question of protection of Aboriginal workers raises the matter of protection of those working on missions and government settlements eg in building and maintenance, policing inmates, supervising children, teaching, cleaning and cooking, sewing garments etc for distribution to the government's other welfare clients. They were unpaid or given 'pocket money' or occasional treats like chocolate. Under the *1918 Regulations to the 1905 Aborigines Act* they were obliged to work as directed. If they refused the Superintendent could withhold their rations, expel them or inflict summary punishment by confinement for up to 14 days or corporal punishment in the case of inmates under 16. The Chief Protector of Aborigines was to be notified of the punishment.

b. What happened to Aboriginal people's wages? How did they get their money? What records were kept? Evidence of fraud? Extra tax payments?

c. What trust funds were established from Indigenous earnings, etc

- In the south of WA most Aboriginal people worked in family groups and arranged contracts directly with their employers. They were paid in cash/ booked up goods against their wages.
- From 1909 the Aborigines Department negotiated with employers to put wages of Aboriginal people employed through the department or Aboriginal young people sent out to work from children's missions and later Moore River and Carrolup in trust accounts supervised by the department. Under the 1905 Aborigines Act the Chief Protector of Aborigines could manage the property and earnings of Aborigines.
- Department files indicate that young people wrote into the department for goods to be purchased and forwarded to them. Nyungar oral history records that Chief Protector Neville was most unwilling to give out cash to workers.
- What the eventual fate of the growing cash accounts was requires further research, although former workers claim never to have received the full monies due to them.
- The WA government should be called on to examine its records for how many were involved, their names and fate of their wages. There are details in Annual reports re trust account and no doubt more in administrative files.

d. Controls, disbursement and security of federal benefits (maternity allowances etc)

- Over a 30 year period between the 1940s and 1970s the full range of federal benefits gradually became available to all Aboriginal people. During this

period exclusions based on race, lifestyle or place of residence continued to limit Aboriginal access to these benefits.

- Initially under agreements between the Department of Social Security [DSS] and state governments these benefits flowed directly to state Aboriginal administrations and in some cases to employers of Aboriginal workers.
- Administrators saw these benefits as a new source of public revenue to promote policies of assimilation, cut back on expenses such as rationing and improve facilities on missions and settlements and pastoral stations. In 1964 social security benefits provided up to 46% of mission incomes in the NT. Meanwhile lack of supervision created opportunities for some employers to abused the funds for their own advantage.
- By the 1960s direct payments of pensions and maternity allowances were being made to Aboriginal people in southern Australia and from this time the DSS sought to extend this practice to all Aboriginal clients.
- Misuse of child endowment by governments and missions occurred in the context of assimilation policy that advocated the support of intact nuclear Aboriginal families and the stated intention of child endowment to 'ease the burden of the mother of the family'. For the large Aboriginal families of the period child endowment represented a considerable income that would indeed relieve the pressures brought by assimilation.
- Initially in the south of WA distribution of child endowment was supervised by welfare officers and those families who did not follow 'proper' spending patterns could face having their children removed, and with it the extra financial boon brought by child endowment.
- The payment of child endowment to institutions caring for Aboriginal children greatly assisted the expansion of such facilities during this period, often to the detriment of the children's diet, schooling and living conditions that should have been vastly improved by this new source of funding.
- In the context of today's alarm about Aboriginal welfare dependency it is sobering to note that during the period of extension of federal benefits to Aboriginal people, Aboriginal administrations actively encouraged reliance on welfare benefits. [Prior to this welfare for Aboriginal people consisted of rations, blankets, some medical assistance or incarceration in a government settlement. No cash payments were available for Aboriginal people prior to access to federal social service benefits.] Despite their legal responsibilities towards Aboriginal workers, administrations had no expertise in creating adult employment as was stated at the time 'with the best will in the world this

Department cannot solve this particular and pressing problem of unemployment. We cannot create work for natives.'

[Haebich 2000 pp 448 ff; Haebich new research on assimilation policy]

e. Previous investigations

- I don't know about this for WA

f. How can people find out what is owing to them etc?

- At present in WA as far as I understand there is no system available, apart from Aboriginal people being able to access their personal/ family records. The contents of these personal records are highly variable and may/ may not be useful in this quest.

g. What have governments done to find out what is owed?

h. Should governments have to pay back/ compensate people? What has been done elsewhere?

- Outside of Qld and NSW governments have done little apart from some have begun preliminary investigations.
- Yes, governments should have to pay back/ compensate people. I refer you to my paper on stolen wages and consequential poverty¹ and the following quote from this paper:

[Australian governments] actively contributed to the consequential poverty referred to in the title to this paper. By denying generations of Aboriginal people the right to decent and productive work, proper wages, sufficient services and adequate welfare, governments laid the basis for an Aboriginal underclass without sufficient land, property, capital, economic skills or employment prospects. This is a stark irony in a nation proud of its history as a 'workers paradise'. ' [Haebich 2004 pp 3-4]

- We should be looking to examples overseas – Native Americans, Jewish families, and former slave workers for the Nazi regime, for example

i. A national forum?

- This could be appropriate if appropriate form agreed to by Aboriginal people affected, and supported by government measures to compensate former workers, and to educate the wider community about what happened.

¹ Term first used by solicitor Robert Haebich in Palm Island case before HREOC



**Annotated Chronological List of Statutes Referring
to Aboriginal People in Western Australia
1841-1972**

Prepared by Anna Haebich

Griffith University, 2005

21/1841 An Act to constitute the Island of Rottnest a legal prison

A prison for Aborigines sentenced to transportation, imprisonment or committed for trial or any other form of custody, there to be instructed in 'useful knowledge' and 'trained in the habits of civilised life.'

Repealed by 14/1903.

3/1843 Publican's Act

Licensed publican convicted by a justice of the peace of supplying liquor to any 'Aboriginal native' for his or her own use to be liable to a maximum fine of 5 pounds (\$10).

18/1849 Aboriginal Native Offenders Act

Two or more justices not interested in the subject matter of the complaint, one being in every case a Guardian or Sub-guardian of Natives or Resident Magistrate, authorised to try Aborigines for any offence except murder, assault with intent to murder, arson, endangering human life and rape.

Justices empowered to impose maximum sentences of 6 months imprisonment and 24 lashes.

Justices can decline summary justice and recommend for normal trial.

17/1863 An ordinance to extend the jurisdiction of the Police and Resident Magistrates

Resident Magistrate or Police Magistrate sitting alone can hear cases involving Aboriginal defendants.

14/1871 An Act to regulate the hiring and service of Aboriginal Natives engaged in the Pearl Shell Fishery; and to prohibit the employment of Women therein

8/1874 Aboriginal Native Offenders Amendment Act

Two disinterested justices can impose maximum imprisonment of only 6 months.

Extended to apply to 'half-castes.'

Repealed by 8/1883.

11/1874 Industrial Schools Act

To promote the efficiency of charitable institutions providing for needy children, orphans and 'children of Aborigines' by granting institution managers powers over their charges. In particular, they could legally retain children voluntarily surrendered to their care and stand in loco parentis to them. 'Children of Aborigines' were to remain under the manager's control to the age of 21 and could be placed in apprenticeships to the age of 21 or into service for two to five years without gaining the prior consent of their parents. (Parental consent was required in the case of European children.)

Repealed 31/1907.

?/1880 The Wines Beer and Spirits Sale Act

Aborigines not allowed on licensed premises. First offence by licensee 2- 5 pounds, increasing to 25 for subsequent offences. to

25/1886??

8/1883 The Aboriginal Offenders Act

Repealed previous relevant Acts. Excluded same range of offences from courts of summary jurisdiction. Abolished whipping of Aboriginal offenders.

Magistrate with one or more justices of the peace could impose maximum sentences of two years imprisonment. Magistrate alone or two justices alone could impose maximum of 1 year. If no other justice within 20 mile radius, 1 justice sitting alone could impose maximum sentence of 1 year. No cumulative total of sentences to exceed the maximum.

Amended by 10/1970.

25/1886 The Aborigines Protection Act

To provide for the 'better protection and management' of Aborigines and to amend the law relating to contracts with Aboriginal employees. The five major sections of the Act are as follows:

a. Aborigines Protection Board (APB):

- appointed by and responsible to Governor; APB members to appoint honorary protectors to assist at the local level
- duties — to supervise rationing and medical care to needy Aborigines and Aboriginal reserves; to advise Governor on care of Aboriginal children; to report on Aboriginal conditions; and to exercise a general supervision over all matters relating to Aborigines
- funding — 5,000 pounds (\$10,000) per annum.

b. Employment contracts:

- specified conditions for legally valid contracts (age of employee, period of employment, nature of work and payment, signed by justice or protector)
- not obligatory to take out contracts.

c. Employment of Aboriginal prisoners:

- authorised their employment outside of prisons.

d. Apprenticeship of Aboriginal children:

- Resident Magistrates, acting on Board's instructions could indenture any Aboriginal or 'half-caste' children from the age of 6 to 21; employers to provide reasonable maintenance, clothing and humane treatment
- justices of the peace and protectors to inspect place of employ
- local justices to deal with complaints against employers or apprentices
- could impose fines of up to 10 pounds (\$20) for female employers, 10 pounds (\$20) or imprisonment for male employers, and up to one month's prison for apprentices.

e. Miscellaneous:

- persons to come under the Act — 'every Aboriginal native of Australia, and every Aboriginal half-caste or child of a half-caste, such half-caste or child habitually associating and living with Aborigines'
- justices of the peace could order Aborigines out of town; those who refused could be sentenced to up to one months jail
- Aborigines prohibited from selling any items issued to them by the Board, those purchasing items faced fine of 20 pounds (\$40) or one to three months imprisonment.

Repealed by 14/1905.

23/1889 Constitution Act, Section 70

Colonial Office to retain control over Aboriginal affairs and Aborigines Protection Board 5,000 pounds (\$10,000) or 1 per cent of the colonial gross revenue, whichever was greater, to be granted annually to APB

Repealed 5/1897. Repeal subsequently deemed invalid. Repeal legislated for retrospectively in 14/1905.

24/1889 An Act to provide for certain matters connected with Aborigines

Amends S.2 of 13/1875 and empower reserves to be set aside for 'Aboriginal natives' from Crown lands.

Repealed by 5/1897.

18/1892 Aboriginal Offenders Act (Amendment) Act

Restored whipping of male Aboriginal offenders in place of or in addition to imprisonment. Strokes not to exceed 25; for male under 16 years maximum of 12.

2 or more justices of the peace or one justice of the peace if no other in 20 mile radius to have same powers as bench consisting of a magistrate and justice(s) of the peace. Could impose maximum penalty of 2 years imprisonment.

Repealed by 14/1901-2.

25/1892 An Act to amend 'The Aborigines Protection Act, 1886' and to provide summary remedy for breach of contract by Aborigines

One justice of the peace sitting alone empowered to impose maximum of 3 months imprisonment with or without hard labour on Aborigines convicted for breach of contract or maximum fine of 20 pounds (\$40) on employers in breach of contract.

Repealed 14/1905.

28/1892 The Masters and Servants Act

Act not to apply to any person deemed to be an Aboriginal as defined by 25/1886.

15/1893 Aboriginal Offenders Act (Amendment) Act

Maximum for Aborigines breaching employment contracts increased to 3 years imprisonment for first offences and 5 years for second and subsequent offences. These sentences could be imposed by two justices.

Repealed 14/1901-2.

14/1893 Constitution Act Amendment Act

Aborigines and 'half-castes' excluded from the franchise.

1897 Aborigines Act

To amend the Constitution Act of 1889 and to provide for the 'better protection' of the Aborigines. Abolished the APB and created the Aborigines Department, a sub-department under the control of the responsible Minister of the Crown. The Department's annual grant

was set at 5,000 (\$10,000). The Department retained the same duties as the APB, with the addition of providing for the custody, maintenance and education of children of Aborigines. Repealed 14/1905.

37/1898 Land Act

The Governor can grant or lease to any 'Aboriginal native, or the descendant of any Aboriginal native' any Crown land not exceeding 200 acres, under terms and conditions laid down by the Governor (Section 6). The Governor can declare reserves for the 'use and benefit of the Aboriginal inhabitants' (Section 39).
Repealed by 37/1933.

19/1899 Constitution Act Amendment Act

Aborigines and 'half-castes' excluded from the franchise unless owners of freehold land. Section repealed by 27/1907.

29/1902 Criminal Code Amendment Act

An Aboriginal charged with an offence not punishable with death who enters a plea of guilty may be dealt with summarily but no sentence of imprisonment imposed shall exceed 3 years.
Section repealed 31/1906.

15/1904 Mining Act

Aboriginal labour not to be accounted bona fide work in fulfilment of the labour conditions upon mining tenements, unless with the permission in writing of the Warden (Section 291).
Section repealed by 83/1963.

14/1905 Aborigines Act

To 'make better provision for the better protection and care of the Aboriginal inhabitants of Western Australia.'

a. Administration.

- Aborigines Department became a full government department under control of Chief Protector responsible to relevant Minister of the Crown
- maintained field system of honorary protectors at the local level
- duties remained the same as under Act 5/1897
- major increase in powers of the Chief Protector and local protectors
- annual grant increased to 10,000 pounds (\$20,000)
- allowed for establishment of departmental institutions and introduced controls over missions.

b. Application of the Act.

New four fold definition of persons coming under the Act:

- 'Aboriginal natives' — Aborigines of the full descent
- 'half-castes' — persons with an Aboriginal parent or children of such persons who lived with an Aboriginal as wife or husband or who lived or regularly associated with 'Aboriginal natives'

- 'half-caste' children under the age of sixteen, irrespective of life style
- onus of proof lay with the individual
- application of these definitions extended to all other Western Australian and federal legislation
- exemption clause — to allow Aborigines of a 'suitable degree of civilisation' to apply for exemption from the provisions of the Act.

c. Controls over Employment.

- 'Aboriginal natives' (Aboriginal girls under 14 not to be employed), 'half-caste' women and 'half-caste' males under 14 to be employed under agreement or permit through protector
- employers and protectors to negotiate terms and conditions of employment (ie sufficient rations, clothing, blankets and medical attention)
- protectors, with police, to supervise employment
- protectors to initiate proceedings against employers or employees breaking terms of permits or agreements.
- employers to enter into recognisance with protector to move any Aboriginal, male 'half-caste' under 16 or any female 'half-caste' could be moved (eg by employer)
- Chief Protector of Aborigines could manage the property and earnings of Aborigines

d. Controls over movement and removals

- protectors and police could order Aborigines to move camps from any area to another
- Governor could declare 'prohibited areas' for Aborigines not legally employed who could be arrested and removed at the Chief Protector's discretion
- police and justices of the peace could order Aborigines out of town
- the Governor could declare Aboriginal reserves of up to 2,000 acres in any magisterial district
- provisions included (especially through regulations) for the establishment of segregated Aboriginal institutions on reserve land
- the Minister could order the removal of Aborigines to any reserve or district without due process of court or appeal mechanism; they could be detained indefinitely.
- Any person enticing a 'half-caste' or Aboriginal child to leave a school, institution or lawful service without consent from the protector was guilty of an offence against the Act.
- The governing authority of an Aboriginal institution had all rights and powers over Aboriginal and 'half-caste' children in the institution conferred for children's institutions under the 1907 State Children's Act.

e. Controls over personal and family life.

- Chief Protector to be legal guardian of Aboriginal children to age of sixteen
- sexual contact between Aboriginal women and non-Aboriginal men an offence under the Act
- Chief Protector's approval required for marriages between Aboriginal women and non-Aboriginal men
- liquor prohibition for persons deemed to come under the Act

- Aboriginal mother's oath not sufficient to prove paternity
- in cases where paternity is proved any maintenance to be paid to the Department.

f. Penalties for offences against the Act.

- Aborigines could be arrested without warrant
- local courts consisting of a resident magistrate or two justices of the peace to adjudicate, could impose maximum sentences of six months imprisonment with or without hard labour or maximum fines of 50 pounds (\$100)
- maximum fine for supplying liquor to Aborigines 20 pounds (\$40) or one months imprisonment; justices to decide whether defendant is 'Aboriginal native' or 'half-caste' under the 1905 Act.

g. Regulations

The Governor could make regulations on matters relating to:

- the care, custody and education of children of Aborigines and 'half-castes'
- the removal of Aboriginal and 'half-caste' children to Aboriginal institutions, industrial schools or orphanages and their detention therein
- the control, supervision, care and education of Aborigines and 'half-castes' in Aboriginal institutions
- the conditions under which any Aboriginal or 'half-caste' child may be apprenticed or placed in service with suitable persons.

Repealed 79/1963.

27/ 1907 An Act to regulate Parliamentary elections

'Aboriginal natives' and 'persons of the half-blood' disqualified from enrolling as electors, or if enrolled, from voting at any elections.

Repealed 51/1962.

1909 Regulations to the 1905 Aborigines Act

Any justice of the peace, protector of Aborigines or police officer was authorised to remove any 'half-caste' child under the age of 8 from his or her family and to send such child to an Aboriginal institution without prior consultation with the Chief Protector of Aborigines.

42/1911 An Act to further amend the Aborigines Act, 1905

To rectify certain deficiencies in the 1905 Act and to improve the administration of the Aborigines Department:

- Chief Protector to be legal guardian of all illegitimate 'half-caste' children to exclusion of rights of their mothers
- mission managers to have same powers and duties as managers of children's institutions had over wards under the 1907 State Children's Act
- restriction on size of Aboriginal reserves lifted
- protectors prohibited from issuing permits to themselves or their agents without approval of Chief Protector
- penalties for supply of alcohol brought into line with those of Act 32/1911; possession of alcohol by Aborigines made an offence subject to fine of 5 pounds (\$10) or one month's imprisonment

- courts to require the same standard of evidence to convict Aborigines as for other defendants
- unauthorised persons prohibited from removing 'Aboriginal native' or 'half-caste' women from Aboriginal institutions
- non-Aboriginal men prohibited from camping with 'Aboriginal native' or 'half-caste' women.

Repealed 79/1963.

43/1912 Shearers' Accommodation Act

'Aboriginal natives' excluded from the Act's definition of 'shearer' and thereby denied the right to claim employment conditions specified in the Act.

Repealed by 75/1974.

28/1913 The Criminal Code

Repealed 1902 Criminal Code. Retained clauses relating to public execution of Aborigines and whipping of male Aborigines. On the summary trial of any 'aboriginal native' for an indictable offence justices required to forward to the Registrar of the Supreme Court and the Attorney General a record and report of the conviction and an abstract of the evidence for and against the convicted person.

1918 Regulations to the 1905 Aborigines Act

7. Inmates in Aboriginal institutions were to work as directed. If any inmate persistently refuses to work the Superintendent of the institution could withhold his or her rations or remove the inmate and his or her family from the institution.

10. The Superintendent could inflict summary punishment by confinement for up to 14 days for misconduct, neglect of duty, insubordination or breach of regulation.

11. The Superintendent could inflict corporal punishment on any inmate under the age of 16 who is guilty of an offence against the regulations, or who leaves or attempts to leave the institution without permission. The Chief Protector of Aborigines was to be notified of the punishment.

18. Every inmate to the age 14 was to attend school as required by the Superintendent.

19. Every male inmate to the age of 14 and every unmarried female was required to reside or take meals and sleep in any building set aside for such purpose as directed by the Superintendent.

1919 Regulations to the 1905 Aborigines Act

12. The Minister issuing a warrant for removal (under section 12 of the 1905 Act) could direct police to remove the person/s and to convey them to an institution or reserve.

?/1922 Licensing Act Amendment Act

Offence to receive order from Aborigines for supply or delivery of alcohol.

Repealed ? 1970

1929 Regulations to the 1905 Aborigines Act

5. Superintendents were responsible to the Chief Protector of Aborigines for the administration, welfare and control of Aborigines in their institutions.

43/1936 Aborigines Act Amendment (Native Administration Act)

To significantly amend the Aborigines Act, 1905.

a. Administration.

- Department renamed Department of Native Affairs under Commissioner of Native Affairs Department regions made coterminous with those of Police Department
- Governor to appoint Travelling Inspectors to report to the Commissioner on Aboriginal conditions
- no increase in Department's annual grant although certain provisions (see below) introduced to enable the Department to generate funding.

b. Application of the Act.

- Persons deemed to be 'natives' extended to include all persons of Aboriginal descent with exception of 'quadroons' over age of 21, unless classed as 'native' by special magisterial order, and persons of less than 'quadroon' descent born before 31 January 1936 the latter not to associate with 'natives'

c. Employment.

- Employers who had not already insured their Aboriginal employees to contribute to Departmental Native Medical Fund
- Act to cover all forms of labour including casual work.

d. Personal and family life.

- Commissioner to be legal guardian of all legitimate and illegitimate 'native' children to age of twenty one (s.8 The Commissioner shall be the legal guardian of every native child, notwithstanding that the child has a parent or other relatives living, until such child attains the age of twenty-one years')
- Commissioner to authorise any person to medically examine a 'native'
- 'natives' to have permission of the Commissioner to marry;
- intestate Aboriginal estates to pass directly to the Department
- the recovery of maintenance to be facilitated by recognising mother's oath to prove paternity
- any sexual contact between Aborigines and non-Aborigines an offence.

e. Penalties for offences against the Act.

- penalties added for subsequent offences: second offence maximum of twelve month's imprisonment or 100 pounds (\$200), third and subsequent offences up to two years imprisonment or maximum fine of 200 pounds (\$400).

f. Miscellaneous.

- Commissioner can intervene to stop any traditional Aboriginal practices (for example initiation, child betrothal)
- criminal offences between Aboriginal parties to be heard before Courts of Native Affairs and tribal practices can be taken into account
- measures introduced to prevent Aboriginal defendants from prejudicing themselves.

Repealed 79/1963

37/1940 Native Administration Act Amendment Act, 1905-1936

Any 'native' requesting anyone to obtain liquor or opium guilty of an offence and liable to summary conviction and maximum penalty of 5 pounds (\$10) or 1 months imprisonment.
Repealed 79/1963.

1944 Natives (Citizenship Rights) Act

Set out the provisions for Certificates of Citizenship. It was not fully repealed until 1971.

Applications were to be made through a Resident Magistrate.

Applicants must sign that they wanted to become a citizen, had for two years dissolved tribal and native associations except with lineal descendants or native relatives of first degree, and had served with the armed forces with honourable discharge or were otherwise fit and proper persons.

Applicants were to attach two references stating they were of good character and of industrious habits.

The Resident Magistrate must be convinced that for the two previous years the applicants had adopted a civilised life, that full citizenship rights were conducive to the applicants' welfare, that applicants could speak and understand English, did not have active leprosy, syphilis, granuloma or yaws, were industrious and of good behaviour and reputation and were reasonably capable of managing their own affairs.

The Resident Magistrate then issued a Certificate of Citizenship and holders were deemed to be no longer 'natives' and had all the rights of Australian citizenship.

The Resident Magistrate's decision was final.

64/1954 Native Welfare Act

Department renamed Department of Native Welfare under Commissioner of NW; no change to definition of persons deemed to be aborigines.

DNW duties remain same including to 'to provide for custody, maintenance and education of the children of natives'; adds power of Commissioner to delegate powers and functions; s.8 Commissioner retains legal guardianship powers as laid down but add 'except when a child is a ward according to the interpretation given to that expression by Section 4 of the Child Welfare Act 1947; and the Commissioner may from time to time direct what person is to have the custody of a native child of whom he is the legal guardian, and his direction has effect according to its tenor';

s. 13 repealed exceptions to persons who can be removed under s.12

s.14-15 repealed re entry to reserves and removal from reserve repealed.

s. 17-20 repealed concerning compulsory permits and employment or presence on ships;

s. 22-28 repealed re employment agreements; s. 31, 32 repealed (employment).

Repealed 79/1963.

51/1962 Electoral Act Amendment Act

79/1963 Native Welfare Act

Wholly repealed the Native Welfare Act 1905-1960.

Whole provision re guardianship of children omitted from this Act which repealed the Aborigines Act 1905 and all its amendments up to and including the Native Welfare Act Amendment Act 1960.

To continue to provide for custody, maintenance and education of the children of natives.
Repealed by 24/1972.

??/1963 Licensing Act Amendment Act (no 4)

Prohibitions on alcohol to apply in proclaimed areas.

Repealed ??/1970

??/1970 Liquor Act

??

Repealed ??/1972

??/1972 Liquor Act Amendment Act

Liquor Act or Licensing? Act Amendment Act deemed discriminatory in House of Reps (Hansard 26/10/1972 Questions on notice 6417.

24/ 1972 Aboriginal Affairs Planning Authority (AAPA) Act

Passed as direct outcome of government election platform for formation of single social welfare organisation to combine all functions of existing CWD and DNW; urban Aboriginal housing shift from DNW to SHC.

AAPA functions:

- to coordinate 3 new statutory bodies – Aboriginal Advisory Council (Aboriginal representative body, 14 members who represent local Consultative Committees established in 7 regional areas, CC members chosen by local Aboriginal people, discuss all matters affecting their well-being), Aboriginal Affairs Co-ordinating Committee to coordinate operations of main government organisations (Commissioner AAPA, Chair of AAC, and officers or deputies directly responsible to Minister from Treasury, public Health, Education, Community Welfare, SHC), Aboriginal Lands Trust (8 Aboriginal members appointed by the Minister) to manage reserved lands and other areas under its jurisdiction (role of Lands and Reserves section of AAPA)
- Commonwealth liaison – to coordinate and compile composite submission to Commonwealth for finance in areas of special Commonwealth funding for Aboriginal affairs (health, housing, education, economic and welfare development) and to act as initial distributary agency for grants
- Community liaison – responsible for conduct of Aboriginal consultative process including formation of variety of local organisations, educational role concerning Aboriginal culture and history, film library and production
- Anthropology and community development – advisory service to welfare and other agencies on socio-cultural implications of specific problems agencies face in working with Aboriginal communities and involved directly in planning and implementation of particular economic and community development programs and consultative process.
- other – administrative and clerical, regional extension offices in 7 regions

31/1972 Community Welfare Act 1972

Essential part of process was passing of CW Act; 'to make provision for the establishment of a DCW to promote individual and family welfare in the community and for incidental and other purposes'; integrate welfare and other services for Aboriginal and non-Aboriginal people; remove discriminatory aspect of a welfare authority which dealt with particular ethnic group; create small specialist organisation to foster and carry out special services essential to programs designed to promote social and economic development of Aboriginal people and which were not part of normal repertoire of government departments.; provide for Aboriginal people all community services available to rest of community and to establish specialist organisation to coordinate activities of various government agencies and foster economic, social and cultural advancement of Aborigines of the State.