

**Submission to the Legal and Constitutional References [Senate] Committee:
Inquiry into Indigenous Workers Whose Paid Labour Was Controlled by
Government.**

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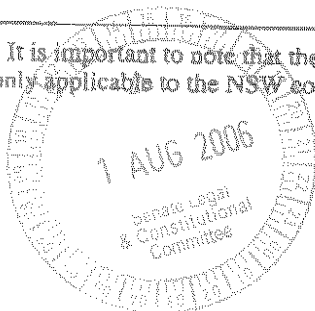
Introduction

In February 2006, I submitted my PhD thesis entitled *Governing Indigenous Peoples: A History of Accounting Interventions in the New South Wales Aborigines Protection and Welfare Boards 1883-1969*, which examines how the predecessors to the current bureaucratic structures and mentalities of government in NSW, the Aborigines Protection and Welfare Boards, 1883-1969, attempted to govern the conduct of the Indigenous peoples of NSW. The thesis traces how the Boards constructed stereotypes of Aboriginal incapacities and then attempted to produce an improved population that transcended those perceived incapacities. In particular, it shows how accounting techniques were integral to the ability of the Boards to both imagine the Aboriginal peoples as a population for government, and to constitute programmes for the management and control of the Indigenous population.

Whilst the thesis did not focus on the issue of 'stolen wages' in NSW, a number of matters arising out of the research should be considered by the committee. These matters are discussed under some of the terms of reference listed by the committee¹.

- a) "...what measures were taken to safeguard them from physical, sexual and employment abuses and in response to reported abuses".

¹ It is important to note that the following comments are based on my PhD research and therefore are only applicable to the NSW context.



The legislation/regulations required the Boards to ensure that apprentices were placed in suitable employment. They also required regular inspections of the apprentices and their places of employment by police or Board officers, together with a regular audit of the apprentice pocket books, which were required to be signed by the inspector. There is, however, no evidence within the surviving records to indicate that the Boards undertook these procedures either on a comprehensive or regular basis. Given the constant financial difficulties the Boards encountered during their tenure², it is probable that these practices were either not instigated or only on an ad hoc basis. For example, of the surviving pocket books of the apprentices, not one of the books sighted by me has been signed by an inspector, which was a requirement of the regulations.

The failure to inspect the pocket money books also rendered the system of pocket money vulnerable to fraud. This aspect is brought out in an interview conducted by myself and a colleague with a former 'apprentice' of the Aborigines Welfare Board:

The system stated this (that we got pocket money) but we did not get any pocket money, and this is what shocks us because my files, what you call the Stolen Wages File, they stated I got wages there, I got wages there. I never got any money, I never got any pocket money. I didn't know what money was all about. I didn't get any pocket money...No one told me about money or anything like this. No one stated anything like this about money. They used to take money out for dentists and things like that. I didn't know this until I got my bloomin (sic) files. Only this year I got my file. They never told me this (personal interview, produced with permission but name withheld).

The archives also indicate the existence of exploitation of Aboriginal people by employers (other than the Boards). This is documented in the objectives for Area Welfare Officers employed by the Aborigines Welfare Board, which state:

...Some of the main functions of male Welfare Officers are to protect Aborigines against exploitation by employers...(Annual Report of the Aborigines Welfare Board, 1958, p.4).

b) *"all financial arrangements regarding their wages...access to their savings..."*

² Periodically throughout their tenure, the Boards specified in the annual report that financial constraints prevented them from fulfilling their objectives, including at times the provision of rations.

Up until 1934³ the secretary to the Board maintained the accounting system, including accounts for the wages of apprentices. The records of the accounting system for apprentice wages maintained by State Records include:

- Individual ledger accounts - until 1934 (items 25, 30⁴) – these also included some record of employment. The accounts record receipts from employers, interest paid on account balance (annual) and disbursements (these occurred rarely). The payments from employers indicate that employers were often late with payments, and although the regulations provided the Boards with the ability to fine employers, no evidence exists to indicate that this was done. Indeed, there is evidence that the Boards were willing to reduce the wages paid to apprentices in order to secure or maintain employment. The surviving records indicate that the accounts were audited on an annual basis.
- Cash books to record disbursements (item 27) but records only exist until 1934. A reconciliation of records contained in the cash book against ledger accounts indicate that cheques to Aboriginal claimants were issued to police, and that intended recipients had to present themselves to the police and provide evidence of their identity in order to receive their entitlement. The Cash Books were reconciled on a regular basis and audited annually. It is important to note that while there is no evidence of fraud in relation to these payments, nor is there evidence that the cheques were actually received by Aboriginal people.
- Trust accounts were also established to administer family endowment payments. Aboriginal people entitled to receive the payments could not be paid in cash until they had proven their 'worthiness', that is their ability to spend money in an acceptable manner. In the interim period, the Boards maintained a voucher system, which entitled parents or guardians to purchase specified goods from specified stores. Ledger cards, maintained by managers were forwarded to head office for regular updates of central records.

³ In 1934, the accounting functions were transferred from the Aborigines Protection Board to the Chief Accountant in the Colonial Secretary's Office. At about this time, the accounting records disappear from the State Records.

⁴ The item numbers refer to records listed in *A Guide to New South Wales State Archives relating to Aboriginal People*, State Records, 1998.

- All applicants for payments out of trust accounts were subject to police surveillance to establish the legitimacy of their claim. A satisfactory police report was required before consideration was given to the payment of a claim.

What the above information about the accounting system fails to identify is the injustices inherent in the administrative and accounting practices of the Boards. The following section is intended to provide the committee with examples of how the Boards controlled the access of Aboriginal people under their control to the cash economy, and how it attempted to manipulate the spending behaviour of these people.

Regulation 23A mandated that Aboriginal children apprenticed under this scheme could not access their wages, except for the miniscule amounts of pocket money, until they reached 21 years of age:

Any moneys held by the Board may be applied towards the maintenance, advancement, education or benefit of the ward or ex-ward at any time before 21 year and the balance at 21 years to be paid to the ex-ward.

Regulation 23B(1) stipulated that upon reaching their maturity, beneficiaries were to be notified and their account balances remitted in full:

When the ward's guardianship is terminated, the Superintendents shall inform the ward in writing

- a) that guardianship terminated,
- b) of moneys held and of procedure for recovery and or control,
- c) of facilities for after care.

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

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

contradict. For example, when interviewed about the Stolen Wages issue, Valerie Linow who had been apprenticed under the scheme replied:

I didn't get paid. I didn't even know we had to get paid when I went to work. I didn't even know anything about money. I didn't know how to spend money. I knew nothing about it. No-one told me I had to get paid. I was there to obey (Transcript, *Rewind*, ABC Television, 17 October, 2004).

A report of the Welfare Officer, Felton, also documents the failure of the Board to inform beneficiaries of their entitlements. In a report to the Board, Felton advised the Central Office:

...until I had explained that a trust account was being kept for him at Head Office, X, the Apprentice was very hazy about his rate of pay (Correspondence Files, 8/2756B, Files 301-359, Reel 3390, p.21).

In a similar case in 1947, a Station Manager wrote on behalf of a claimant:

Until recently neither X nor I knew a Trust Account existed (Correspondence Files, 8/2797B-2799, Reel 3421, pp80-81).

These cases testify to the failure of the Aborigines Welfare Board to comply with the Regulations, and the absence of accountability to the beneficiaries of these trust accounts.

In addition to the failure to inform beneficiaries about their entitlements (wages, balances, right to payment etc), the Board also restricted how trust account monies could be spent. On the receipt of each application for a payment from a beneficiary, the Board instigated a police investigation into the applicant and the intended use of the funds to ensure that the money was "not wasted, but either banked or put to some good use" (Report of the Board, 1938). This assumption that Aboriginal people could not be trusted to spend their entitlements underpinned the procedures and a system of administering claims that caused suffering and pain to Aboriginal people. The Correspondence Files provide numerous examples of the failure of the Aborigines Welfare Board to deal expediently with applications from beneficiaries seeking payments out of their trust accounts.

One such example relates to a letter dated 24th February 1947 to the Board requesting a part payment of trust monies. On the 7th March, the Board wrote to the

applicant, denying the application under the provisions of regulation 23A. The Board subsequently received a letter (dated 27th March) from the girl's uncle pleading her case, stating the money was not for herself but to purchase clothes for her child. The Board responded according to procedures by commissioning an investigation by the local police into the legitimacy of the girl's claim. On 23rd May, the police reported to the Board: "the reason stated for wanting the money is a truthful one". On 25th June, the Board finally issued a payment for £10, exactly 4 months after it had received the original 'urgent' request. Enclosed with the cheques was a letter to the beneficiary:

It is expected that you will endeavour to make this amount meet your present needs and that you will not find it necessary to make further withdrawals from your Trust Account except in cases of emergency (Correspondence Files, 8/2759B-2761A, Reel 3393, p.28)

Another case demonstrates the Board's failure to comply with reg 23B(1) that is, for the Superintendent to inform the beneficiary on his maturity of the account balance and the procedures for recovery. In 1947, the Board received letters dated September (undated) and 28th November requesting repayment of the applicant's trust account balance. The applicant had previously attended Head Office in April 1947 at which time he was informed of his account balance but no payment was made. Indeed, the contents of the file indicate that the Board deliberately avoided paying the beneficiary. Attached to the file is a letter from the Superintendent (dated 4th December), which notes that although the applicant had turned 21 on the 22nd May 1945 he was "not advised of the amount outstanding to his credit". This was despite the fact that his ledger account was marked "[t]he fund is payable to X at 21 years of age but may be applied, in the meantime at the discretion of the Board". The beneficiary ultimately received his entitlement but only after the intervention of the Station Manager who phoned the Board and advised them that the money was needed to pay a £20 legal fine plus £25 compensation. Even at this stage the Board's records show no acknowledgement of its legal duty or of the legal entitlement of the beneficiary, rather the matter was referred to the Chairman for direction as to whether to repay the balance in full or in part, or to refuse the application (Correspondence Files, 8/2797B-2799, Reel 3421, pp80-81). Although the claimant in this case was ultimately paid, this case brings into question how the Boards implemented the provisions of the Act and

regulations. Indeed, it demonstrates the Boards non-compliance with the Regulations, and how it was that Aboriginal beneficiaries remained ignorant of their entitlements.

(i) ...A 'need to set the record straight'

The preceding discussion is provided to the members of the committee to help them understand how the practices of the Boards were often in contravention of the Act/Regulations. Moreover, this discussion (and my research) documents how a comprehensive system of accounting and accountability existed to ensure the Boards complied with Treasury Regulations and political necessities. However, what these records also document is a failure of the Boards to account to the Aboriginal owners of the Trust Accounts, and to fulfil their fiduciary duty to the beneficiaries. In addition, the absence of an accounting to the holders of the Trust Accounts by the Boards, together with the failure of the accounts to survive has ensured that Aboriginal claimants are, in many cases unable to substantiate their entitlements.

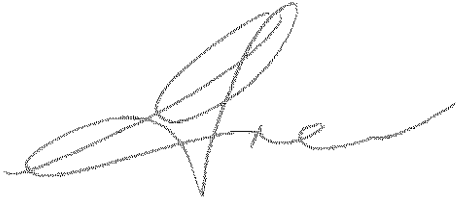
In order to set the record straight, and to identify the complicity of government practices in the creation and maintenance of Indigenous poverty, it is important that these aspects of the operations of the Boards are clearly documented.

Recommendations

It is impossible in a submission such as this to convey to the committee the extent of the bureaucratic failures of the Aborigines Protection and Welfare Boards. That each Board was the subject of an official inquiry testifies to the difficulties of these administrations. It is important therefore that this committee take the time to adequately inform itself of the extent of the financial injustices (not only wages but all other avenues of financial control, including benefits, allowances and pensions) meted out by the Boards and Aboriginal administrations throughout Australia. To do so, requires the committee to set in place processes to consult with Indigenous peoples, and then undertake a *reparations* (not repayments) scheme to help redress the consequences of these programmes.

The committee has before it a number of recommendations from Professor Anne McGrath that cover the issues of consultation and repayments that I endorse. In

particular, I strongly endorse the recommendation to include a compensation payment for "lost financial opportunities and consequential cross-generational poverty" (McGrath, 2006, p.4).

A handwritten signature in black ink, appearing to read 'Susan Greer', written in a cursive style.

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