

ANTaR Queensland - Stolen Wages Fact Sheet

INTRODUCTION

This fact sheet is to provide affected Aboriginal people, concerned members of the general public, and lobby groups with basic data upon which to assess the current Queensland Government campaign to shut down all litigation on unpaid, missing and misused wages, savings and trust funds during decades of government control.

A glance at the *underpaid* wages in any one year shows clearly that this buy-off is an insult which nowhere near acknowledges the level of financial confiscation endured by Aboriginal families. A glance at the legal data shows clearly the Queensland government was constantly warned of systemic failures and of active and passive breaches of its duty as a legal trustee, but failed ever to implement the necessary checks to prevent massive financial loss to its wards over many decades. Aboriginal poverty is largely a construct of this system.

Queensland Premier Peter Beattie's scare tactic that litigation will take many years and millions of dollars is solely determined by the Queensland Government's willingness or otherwise to provide promptly all information gathered to date for independent or judicial assessment.

HISTORICAL BACKGROUND

Since 1897 Protection Act Queensland government could declare any Aboriginal a ward of state & control every aspect of their lives. People were forcibly interned on reserves (1938: 7525; 1968: 8500). From 1904 all employment, wages & savings were controlled by government under compulsory labour contracts. From 1904 workers' wages went direct to police protector apart from 'pocket money' retained by employer for distribution during work period. From 1910 government took levies from wages of people living on reserves.

From 1919 government took levies from wages of those not living on reserves. From 1919 government set pastoral wages at 66% of white wage. 'Every Aboriginal' on a reserve must work for rations & shelter. In 1943 government set up Aboriginal Welfare Fund to receive wages levies & profits from reserve enterprises, to be used to develop enterprises on reserves. From 1950s government pays few shillings to a few key workers on reserves.

In 1968 government starts wage economy on reserves; workers paid 50% state minimum wage. From 1968 equal wages in pastoral industry; forced contracting ceases. From 1971 forced confinement on reserves ceases. From 1972 forced control over wages & savings (bank books) ceases, although people have to request to be free from financial management.

From 1979 government knows underpaying reserve workers is illegal; wage 72% of state minimum. In 1986 government paying reserve workers only 75% of award. In 1985 seven Palm Island workers start action in Human Rights Commission for legal wages. From 1987 government hands control of communities to Aboriginal councils; budget insufficient to cover award rates.

In 1996 government loses Human Rights Commission case on under award wages; refuses to pay suggested compensation of \$7000 to each of six workers. Workers commence federal court action; government capitulates in 1997. In 2000 Beattie government makes \$25 million available to pay all workers after losing several more cases on under award wages. Beattie government refuses to include mission workers in above payout.

From 2000 Queensland Aboriginal & Islander Legal Service Secretariat (QAILSS) collects testimony from over 2000 people who want to take action against the government for missing, unpaid and underpaid wages, misused trust funds, unpaid child endowment, workers' compensation, deceased estates.

In 2002 Beattie government makes offer of \$55.6 million to pay \$4000 to some people & \$2000 to others as settlement for all claims on any of these matters

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FINANCIAL DATA

(all amounts today's value)

Pastoral workers

- 1940: 1982 workers received 40% of pastoral rate; each worker underpaid \$2214 pa relative to regulation or \$5109 relative to award
- 1949: 4500 workers at 31% of rate: underpaid \$3931 (regulation); \$7750 (award) pa
- 1960: 4600 workers at 65% of rate: underpaid \$4136 (award) pa
- 1967: 5000 workers at 70% of rate: underpaid \$4265 (award) pa
- PLUS pocket money: of the wages paid, up to 80% was retained by employers & much, possibly most, not paid to workers (see legal evidence below)
- PLUS levy – Aboriginal Provident Fund: 2.5% from married wage; 5% from single wages those not living on reserves

Reserves workers

Have calculated that 50% of inmates worked pre 1968; post 1968 from files

- 1940: 3121 workers each underpaid \$9,950 (to state minimum wage) pa
- 1949: 3454 workers: each underpaid \$10,875 (to minimum) pa
- 1960: 4310 workers: each underpaid \$8,998 (to minimum) pa
- 1970: 2500 workers: each underpaid \$8,110 (to minimum) pa
- 1975: 2500 workers: each underpaid \$13,978 (to award) pa
- 1980: 1463 workers: each underpaid \$11,490 (to award) pa
- 1985: 901 workers: each underpaid \$5,923 (to award) pa
- PLUS levy – settlement maintenance: by regulation 5% from married wage; 10% from single wage of those working off reserves
 - Separate data available only until 1938: shows levy often averages over 13% & Palm Island levy at times over 25% of wage

Bulk savings trust account – Queensland Aboriginals Account

From 1933 government froze most of savings in investments to earn extra interest

- 1940 \$9.6mil invested – interest bonus to government \$119,652 pa
- 1950 \$7.3mil invested – interest \$127,366 pa to Welfare Fund
- 1960 \$10.4mil invested – interest \$286,673 pa to Welfare Fund
- 1970 \$7.3mil invested – interest \$143,544 pa to Welfare Fund
- 1975 \$2.7mil invested – interest \$97,419 pa to Welfare Fund

Trust funds generally

- **Aboriginal Provident Fund & Aboriginal Protection of Property Account**
Listed separately only until 1938; after 1943 part of Welfare Fund:
 - Misused by government & not recouped to 1938 (from data to hand) identifiable amount: \$10.33mil
- **Aboriginal Welfare Fund**
From data to hand (incomplete); between 1943-1990:
 - Spendings of doubtful legitimacy or not recouped \$93mil

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LEGAL EVIDENCE

Duty of financial trustee

- must keep proper books of account; must not profit from the trust or have conflict of interest
- active breaches of trust consist of intentional negligent or dishonest acts
- passive breaches of trust consist of failure to act

Fiduciary duty

- occurs when one person is in a position of trust to act for or on behalf of another
- a fiduciary must act in beneficiaries' interest; must not profit from relationship; must not act for own benefit; must have no conflict of interest or intent to gain

Evidence of breach

Wages:

- government sold Aboriginal labour cheaply, failed to secure even discounted amount
- government always knew & was frequently warned pocket money riddled with fraud but refused to pay for regular audit inspections
- government established gross underpayment on reserves despite warnings insufficient for family maintenance
- government deliberately flouted law to underpay reserve workers after 1975

Savings:

- government always knew & was frequently warned of police fraud
- government often warned thumb print system corrupted
- government warned 1960s & 1970s system still open to fraud
- despite this knowledge government refused to allow workers to check transactions
- over time the government has seized bank interest, imposed a levy on savings, frozen vast amounts of desperately needed cash in investments & retained surplus interest

Trust funds:

- prior to establishment of Welfare Fund in 1943, government often warned re using trust monies for government expenses
- often only a fraction of Provident Fund legitimately allocated (ie for rations & relief)
- often only a fraction of Property Account distributed to next of kin

Aboriginal Welfare Fund:

- removals costs often charged to AWF & only partly repaid, if at all
- 1940s: director says cattle wages wrongly charged to AWF; also white salaries
- 1960s: director says settlement wages wrongly charged to AWF
- 1960s: director says dept liabilities wrongly charged to AWF
- 1970s/80s settlement wages increasingly charged to AWF
- 1970s/80s: auditors complain no effective accounting of cattle ventures
- 1975/90: massive trade losses in cattle ventures
- 1970s commonwealth housing funds wrongly streamed through AWF
- 1970s/80s: auditors complain ineffective rent collecting causes massive arrears
- 1980s: auditors complain no proper housing register so can't identify spending
- 1980s: rents wrongly charged against AWF as 'administrative costs' instead of accruing to housing pool