
What Price Pastoral Leases? The Exploitation of Queensland Aboriginal labour by Pastoralists and Government 1897-1968

Loretta de Plevitz *

In the 1992 *Mabo*¹ decision, the High Court of Australia acknowledged that though Aboriginal ownership of land survived British colonisation, it was lost when a parliament alienated the land for freehold or leasehold title. The question of Aboriginal land rights in relation to pastoral leases was not at issue and therefore was “left to another day”. That day arrived in 1996 when the High Court was faced with deciding whether a nineteenth century grant of a pastoral lease by the Queensland Government had extinguished the rights of the Wik peoples over their land. The High Court by a majority held that the rights of the pastoral leaseholders and the Aboriginal people could co-exist.² This decision galvanised the Federal Parliament into formulating a “10 point plan” to amend the *Native Title Act* 1993 (Cth) so that “certainty” of tenure could be provided to a small number of pastoral leaseholders.

This paper focuses on a particular issue in relation to what is known as the Wik debate. It argues that for over 70 years Queensland pastoral leaseholders financially benefited from a government-initiated system of wages under which the labour of Aboriginal pastoral workers was priced at about a quarter the cost of white labour. The system, begun by an AWU-supported Labor Party Government to protect white wages in the pastoral industry, was maintained and cynically exploited by successive Queensland Governments, firstly to off-set the costs incurred from the policy of rounding up Aboriginal people and placing them on reserves; and secondly, to provide a fund of money that could be drawn on to support general governmental expenditure. By supplying pastoralists with cheap Aboriginal labour, Queensland

* BA UNSW, LLB(Hons) QUT, Lecturer, School of Industrial Relations, Faculty of Commerce and Management, Griffith University, Nathan QLD 4111.

1 *Mabo v State of Queensland (No 2) (Mabo No 2)* (1992) 175 CLR 1.

2 *The Wik Peoples v Queensland* (1996) 187 CLR 1.

Governments gave pastoral leaseholders the financial viability to retain and develop pastoral leases which otherwise they may have had to surrender back to the Crown.

The Pastoral Lease

The nineteenth century man of enterprise viewed Queensland as a vacant space ripe for exploitation. Exploration parties funded by British interests were directed to seek out land for development and investment.³ Hard on the heels of the explorers came the squatters, farmers and pastoralists who, from the 1840s, pushed the frontier steadily north and west from the Darling Downs taking up vast holdings of up to 4,000 square miles.⁴

The first Acts of the new Queensland Parliament regulated the granting and use of Crown land.⁵ The *Pastoral Leases Acts* of 1863 and 1869 created the pastoral lease, a statutory lease of Crown land for pastoral purposes only. A pastoral lease is not in the true legal sense a lease. The major characteristic of a true lease is the right of exclusive possession to the leaseholder: the registered proprietor of the land has no right of entry. The Queensland pastoral lease however is a statutory document hung about with reservations and conditions. For example, the "owner", the Crown, could issue other people with licences to enter the lease to cut timber or remove gravel or stone.⁶ Government inspectors had the right to come onto the land⁷ and travelling stock had to be allowed to pass through it.⁸ Even more importantly as far as exclusive possession was concerned, the Crown had the right to remove or take action against trespassers.⁹ At common law a landlord cannot sue in trespass while the tenancy exists,¹⁰ this is a right reserved to the person in actual possession of the land. Some leases even included a term which allowed Aboriginal people to continue their access to their land.

Pastoral leases were granted for 21 years¹¹ to give the holders time to gain an adequate return from their investment. The yearly rent was modest: for the first seven years it was 5 shillings per square mile, 10 shillings from years 8 to 14, and years 15 to 21, 15 shillings. The lessee could renew the lease for further 14 year periods¹² at a rent not greater than 10% more than the rental paid just prior to renewal. Of course renewal was subject to the lessee having complied with the

3 See, for example, J Logan *R Northmost Australia: Three Centuries of Exploration, Discovery and Adventure in and Around the Cape York Peninsula, Queensland* Vol 1 George Robertson and Co Melbourne 1922, pp266 et seq.

4 D May *Aboriginal Labour and the Cattle Industry: Queensland from White Settlement to the Present* Cambridge University Press Cambridge 1994, p25.

5 For example, the *Unoccupied Crown Lands Occupation Act* 1860 (Qld).

6 *Pastoral Leases Act* 1869 (Qld), s65.

7 *Ibid*, s68.

8 *Ibid*, s62.

9 *Ibid*, s71.

10 *Cooper v Crabtree* (1882) 20 Ch D 589 (English Court of Appeal).

11 *Pastoral Leases Act* 1869 (Qld), s8.

12 *Ibid*, s41.

terms of the lease. If rent was not paid the lease was forfeited.¹³ The lease would also be forfeited if the stipulated grazing capacity was not maintained.¹⁴ To prevent settlers taking up land and not developing it, the lease was granted on condition that it be stocked within a year to at least a quarter of its estimated full carrying capacity of 25 head of cattle per square mile.¹⁵

Though it was possible to buy Crown land suitable for pastoral development outright from the Government, the men of enterprise preferred the option of the pastoral lease which gave most of the benefits of ownership without the initial purchase cost and the problems of selling the land if it proved unproductive. Nevertheless the pastoralists perennially complained that the statutory requirements plus the cost of plant, buildings, horses, and household requirements were sending them into debt. Added to their woes was the burden of not being able to attract labour - northern and western Queensland were remote, hot, the working conditions were poor, and labour recruiters "down South" met a general fear of "blacks", snakes and crocodiles "up North".

As early as the 1860s Aboriginal people were working in the Queensland pastoral industry.¹⁶ From the 1880s the leaseholders' call for labour was assisted by police who obligingly rounded up absconders and forcibly transferred unattached Aboriginal people from other areas to work on local properties.¹⁷ By 1886 well over half Queensland pastoral workers were Aboriginal.¹⁸ As Aboriginal labour was not properly regulated or supervised by government, pastoralists did as they pleased: no wages were paid to the Aboriginal worker who worked for "keep". Small amounts of opium were given to some workers to persuade them to work. The majority however worked the leases simply because it was the only possible way of staying on their land. Aborigines were in effect slaves: as a later Chief Protector of Aborigines was to report, after "working these blacks for years without any interference pastoralists have come to regard them as goods and chattels".¹⁹

The Aborigines Protection and Restriction of the Sale of Opium Act 1897 (Qld)

By the end of the nineteenth century it seemed as if the Aboriginal inhabitants of Queensland were going to die out. Their nations had been destroyed by direct murderous European confrontation and by indirect means such as exposure to diseases to which they had no resistance. The Queensland Government was under pressure from philanthropists to protect the remaining Aboriginal people from further

13 *Ibid*, s50.

14 *Ibid*, s26.

15 In general sheep were not considered suitable for the hot climate of northern and western Queensland.

16 *May supra* n4 p41.

17 *Ibid*, pp43-44.

18 *Ibid*, p45.

19 *Ibid*, cited at p78.

dangerous external contact, especially from Chinese settlers who were believed to be selling or giving out opium. On the pastoralists' side the extermination of Aboriginal people was seen, not in philanthropic terms, but as creating a crisis for them for the supply of labour. On the industrial front, the economic depression of the mid-1890s had produced the Australian Labor Party and a militant working class convinced that no coloured races should ever undercut their wages.

The Queensland Parliament yielded to these diverse interests by passing the *Aboriginals Protection and Restriction of the Sale of Opium Act 1897*. The objective of the Act was to protect Aboriginal people by rounding them up and placing them on reserves around the colony. Any non-Aboriginal person had to have the permission of the Reserve Superintendent to come onto the reserve. An Aboriginal resident could not leave without a permit, even for a family visit.

This Act, which continued in its different forms until repealed in 1984,²⁰ provided holders of pastoral leases with a triple benefit. First, it was believed that once on reserves and properly fed and housed Aborigines would procreate, thus restocking the pastoralists' source of labour. Having the workforce confined to reserves made it easier to call upon labour as required. Second, as the pastoralists had complained to Government that Aboriginal people were depleting the scarce water supplies and that their game was eating the pasture, permanent removal of the people from their country would free up those resources for pastoral purposes. Third, though it was certainly not in the contemplation of Parliament at the time, Aboriginal people, once defined and removed to reserves would be in no position to claim ownership of their land. The value of this benefit to pastoral leaseholders has become apparent with the enactment of the *Native Title Act 1993* (Cth) which passed into legislation the Mabo doctrine requiring Aboriginal peoples to prove continuous association with their land in order to claim it, an almost impossible task where the nations have been displaced onto reserves many kilometres from their country.

Not all Aboriginal people were removed to reserves, however, the majority fell within the definitions of "Aboriginal" in the *Protection Act* and its successors.²¹ "Aboriginal inhabitants"²² including "natives" of other states and territories who were resident in Queensland,²³ and persons deemed by the Parliament to be Aboriginal: "half-castes" who were living with an Aboriginal person as husband or wife, or who habitually lived or associated with Aborigines, the offspring of an Aboriginal mother and other than Aboriginal father, half-castes whom the Minister believed did not have sufficient intelligence to handle their own affairs, half-castes whom the Protector believed were not 21,²⁴ a grandchild of an Aborigine, and the offspring of

20 *Community Services (Aborigines) Act 1984* (Qld), s4.

21 For the purposes of this paper the 1897 Act and its continuations, the *Aboriginals Protection and Restriction of the Sale of Opium Amendment Act 1901* (Qld), *Aboriginals Protection and Restriction of the Sale of Opium Act Amendment Act 1934* (Qld), *The Aboriginals Preservation and Protection Act 1939* (Qld), the *Aborigines' and Torres Strait Islanders' Affairs Act 1965* (Qld) and the *Aborigines Act 1971* (Qld), will be collectively referred to as the "Protection Acts".

22 *Aboriginals Protection and Restriction of the Sale of Opium Act 1897* (Qld), s4(a).

23 *Aboriginals Protection and Restriction of the Sale of Opium Amendment Act 1901* (Qld), s2.

two “half-castes”²⁵ came under the legal protection of the Chief Protector of Aborigines and his local delegates: policemen and superintendents of reserves. These Aboriginal people were compelled by law to live on the reserves, “protected” by the Acts which ruled every aspect of their daily lives from whom they could marry or leave their property to in their will to their right to use electrical appliances.

Some Aboriginal people were not rounded up for placement on reserves, for example, the offspring of Aboriginal fathers and non-Aboriginal mothers, a child living with and supported by a non-Aboriginal parent, and an Aboriginal person lawfully married to and residing with a non-Aboriginal person.²⁶ A half-caste who in the Minister’s opinion ought not to be subject to the Act could be given a certificate of exemption from the Act,²⁷ though such a person still had his or her money and property controlled by the Protector of Aborigines.

To protect Aborigines from economic exploitation the 1897 Act introduced contracts of labour modelled on the agreements drawn up for South Sea Islanders in the sugar industry. Conditions of work and pay rates would be set out in Regulations to the Act. Any Aboriginal person who entered an agreement would be permitted to leave the reserve to work on a pastoral property.

The *Protection Acts* created a role for the Chief Protector of Aborigines and the local protectors as brokers in the pastoral industry labour market. Their function was to negotiate the contracts of employment with the pastoralists.²⁸ However, though the Aboriginal worker was party to the contract he or she could assert no rights under it. Even if the pastoralist failed to carry out his contractual obligations the Aboriginal worker could not be discharged, quit or even be fired without the consent of the local protector.²⁹ Contrary to the law of contract, the protector alone had the right to cancel the contract if the worker was not being properly treated, cared for or controlled.³⁰ Though there was a procedure in place whereby the worker could make a complaint to the local protector of ill-treatment or breach of employment conditions, the protector had the power to return the complaining employee to work if he decided the worker had been “at fault”.³¹ The Chief Protector could authorise rates of pay less than the prescribed minimum if the worker was not considered capable of earning that rate.³² Only the protector, not the worker, could negotiate a higher wage if he thought the worker’s ability, intelligence and experience warranted it.³³ Where white social contacts were few and the local policeman often

24 *Aboriginals Protection and Restriction of the Sale of Opium Amendment Act 1934* (Qld), s5.

25 *Aboriginals Protection and Restriction of the Sale of Opium Act 1897* (Qld), s3.

26 *Aboriginals Protection and Restriction of the Sale of Opium Amendment Act 1934* (Qld), s7.

27 *Aboriginals Protection and Restriction of the Sale of Opium Act 1897* (Qld), s33.

28 *Ibid*, ss12, 13 and 15.

29 Clause 2(x) of the Regulations made under the *Aboriginals Protection and Restriction of the Sale of Opium Acts 1897 to 1901* CXII *Queensland Government Gazette* 6 June 1919 pp 1579-1582 (the “1919 Regulations”).

30 *Ibid*, cl 6(xvi).

31 *Aboriginals Protection and Restriction of the Sale of Opium Amendment Act 1934* (Qld), s15(2).

32 *Aboriginals Preservation and Protection Act 1939* (Qld), s14(5).

the friend and confidante of the pastoralist, a higher wage was unlikely. Any employer who offered better rates of pay could be found guilty of the offence of "removing" an Aboriginal worker from employment without authority.³⁴

To the pastoralist the most obnoxious part of the Act was that labour now had to be paid for. For over thirty years Aboriginal labour had been got for the price of a few provisions. Now pastoralists were obliged to pay the worker a portion of the set wage as pocket-money. The rest of the wage was to be paid to the protector and to government accounts. In fact, either because some pastoralists had instilled a fear that the worker would be returned to the reserve if the agreement were breached, or because of inadequate or fraudulent administration, or because of the vast distances the protectors to cover, there was widespread evasion of the Act. Many Aboriginal workers were never under an agreement and continued to work for rations until the 1960s and beyond.

The McCawley Award

At the end of the First World War the Queensland pastoral industry was booming. A shortage of labour due to the war and a general exodus to the cities created high wages for white labour. The Queensland-registered Australian Workers' Union of Employees applied to the Queensland Court of Industrial Arbitration for a State award to cover the industry. The Court's President, Justice McCawley, handed down the Queensland Station Hands Award,³⁵ (later known as the "McCawley Award") giving Queensland AWU members even better wages and conditions than the Federal award which covered AWU Northern Territory pastoral workers.

The Queensland Award however specifically excluded from its coverage Aboriginal workers under the *Protection Act*.³⁶ This left the spectre of a large and ill-paid Aboriginal workforce which could undercut the wages of AWU members. The AWU, as the mainstay of the incumbent ALP Government, was in a position to force the Queensland Government to protect its members by setting competitive wages and conditions for Aboriginal workers. In 1919 the Government passed Regulations to the *Protection Act*³⁷ which prescribed wage rates for Aboriginal pastoral workers "under the Act". Unlike award wages which were conciliated or arbitrated by Industrial Courts in response to economic conditions and the notion of the "basic wage", the rates were set by Government and updated if and when necessary.³⁸ The Aboriginal pastoral worker was now wholly in the hands of the Government and the local protector, beyond the jurisdiction of the Industrial Court and beyond the common law of contract.

33 1919 Regulations, cl 1(l).

34 *Aboriginals Protection and Restriction of the Sale of Opium Act 1897* (Qld), s17.

35 *In the Matter of the Industrial Arbitration Act of 1916 and the AWUE (Qld)* (1918) 3 QIG 757.

36 Clause 22 of the Station Hands Award.

37 CXII *Queensland Government Gazette* 6 June 1919 pp 1579-1582.

38 1919 Regulations, cl 2(i).

Conditions and Wages under the 1919 Regulations

The Regulation conditions of work prescribed a contract of 12 months,³⁹ the worker to work and live as a single person,⁴⁰ no sick pay, one week's paid holiday only after two years' service⁴¹ (impossible to accrue on one year contracts), with accommodation and a limited list of specified rations⁴² and clothing⁴³ to be provided by the employer. Table 1 sets out a comparison between the Regulation working conditions and the Station Hands' Award from 1919 until 1964 when the AWU finally lodged an application to bring Aboriginal workers under the Station Hands' Award.

During the Depression Aboriginal pastoral working conditions, which had not changed since 1919, were suspended altogether and not reinstated until the end of the Second World War in a period of labour shortage. At that point, Regulation hours of work became the same as the Award, though no overtime was paid for mustering or droving. Now only one year's service was needed to qualify for the one week's paid annual leave.⁴⁴ These conditions remained unaltered for the next twenty years.

The 1919 Regulation wages were initially competitive with Award wages: drovers' and station hands' wages were set at three-quarters of the male pastoral award wage. Cooks could receive half as much again as the award rate, though that depended on whether they were cooking for "European" or "Aboriginal" employees: cooking for white employees attracted 41% more than cooking for Aboriginal workers. Similarly an Aboriginal head stockman supervising a mob of workers which included white employees was to be paid "McCawley award rates", whereas the same stockman was only paid Regulations rates if he was in charge of Aboriginal stockmen.⁴⁵

However under both the Award and the Regulations certain categories of worker could be paid less than the prescribed rates. The Station Hands' Award provided for "slow workers" who were paid at under-award wages,⁴⁶ and for a limited number of youth wages.⁴⁷ Under-Regulation rates depended on age: men over 40 were paid 25% less than the adult Regulation wage "if active", and half the adult wage "if not active".⁴⁸ The number of youths employed was not limited: their wages depended on whether they were "trained" - "untrained" youths were paid only a quarter of the adult male Regulation wage. With no union interest in Aboriginal workers and no birth certificates available, Aboriginal pastoral workers could be paid less than adult Regulation wages.

39 *Ibid*, cl 7.

40 *Ibid*, cl 4(xiii) though there was provision for a married man to be accompanied by his wife.

41 *Ibid*, cl 5(v).

42 *Ibid*, cl 3(i).

43 *Ibid*, cl 1(k).

44 CLXIV *Queensland Government Gazette* of 23 April 1945 p 1063.

45 1919 Regulations, cl 1(e).

46 Clause 5 of the Station Hands Award.

47 (1918) 3 *QIG* 757 at 758.

48 1919 Regulations, cl 1(a).

Table 1: A comparison of working conditions 1919 and 1964

| Condition | Regulations 1919 | Regulations 1964 [unchanged since 1945] | Award 1964 |
|--|---|--|---|
| Paid Annual Leave | 1 week after 2 years' service | 1 week after 1 year' s service. Pro-rata after 6 months' service. | 3 weeks. Pro-rata 1/16 of pay for period worked. |
| Sick Leave | No direct entitlement but not to lose wages where sickness or accident occurred in course of duty. | No direct entitlement but not to lose wages where sickness or accident occurred in course of duty. | 1 week for each year. Pro-rata for less than 1 year service. |
| Long Service | No provision | No provision | Available after 10 years' service. |
| Hours of Work | 48 | 40 | 40 |
| Drovers', Station Hands' overtime | Under 6 hours - time off in lieu. Over 6 hours - time & a half. "Necessary" work on Sunday - time & half. | Time in excess of 6 days a week - time & a half except for mustering or droving. | Time & a half for work in excess of ordinary working hours. Sunday - double. |
| Female Domestics' Overtime | No maximum hours but to be allowed time off for recreation and church. | Day off in lieu of Sunday work. | Time & a half (double for Sunday) in excess of working week. |
| Food and Provisions Supplied | "Food of sufficient quantity and variety" including: bread/flour, fresh meat at least once a week, sugar, tea: total of 12 items. | "Food of sufficient quantity and variety", total 17 items. | Food to be sound, well-cooked and served to employee. 52 items including eggs, custard powder. |
| Method of Payment | Into account held by local Protector. Some pocket money to worker. | Into account held by local Protector. Some pocket money to worker. | Monthly direct to employee. |

As Tables 2 and 3 show, after 1919 the gap between the Award and the Regulation wage rates widened, falling to as low as 40% of the award rate during the Depression and immediately post-war. Shortage of labour at the end of the Second World War produced an increase in the Regulation rates of pay but this was not carried through the economic boom times of the 1950s and early 1960s when Country Party rule in Queensland benefited its constituents, the pastoral leaseholders, by maintaining low wages for Aboriginal workers.

Table 2: Drivers' and Station Hands' Weekly Wages - 1919-1966
(All monetary sums have been converted to dollars for ease of reference)

| Year | Award (District Allowances additional) | Regulations (No District Allowance) | % of Award |
|--|--|---|------------|
| Adult Drover when Travelling with Stock | | | |
| 1919 | \$8.00 | \$6.00 | 75% |
| 1933 ⁴⁹ | \$7.40 | \$3.00 | 40% |
| 1945 ⁵⁰ | \$10.20 | \$4.00 | 39% |
| 1950 ⁵¹ | \$16.89 | \$10.75 | 63% |
| 1961 ⁵² | \$33.95 | \$20.00 | 59% |
| 1966 ⁵³ | \$39.04 | \$25.00 | 64% |
| Adult General Station Hand | | | |
| 1919 | \$5.30 | \$4.00 | 75% |
| 1933 | \$4.40 | \$2.60 | 59% |
| 1945 | \$7.20 | \$3.00 | 41% |
| 1950 | \$12.85 | \$9.75 | 76% |
| 1961 | \$29.75 | \$16.50 | 55% |
| 1966 | \$34.45 | \$21.00 | 61% |

49 Award: 18 QIG of 24 June 1933, p190; Regulations: CXXXV QGG of 11 October 1930, p1390.

50 Award: 30 QIG of 30 June 1945, p307; Regulations: CLXIV QGG of 23 April 1945, p1073.

51 Award: 35 QIG of 20 July 1950, p807; Regulations: CCXIV QGG of 23 December 1950, p2950.

52 Award: XLVII QGIG of 29 June 1961, p828; Regulations: CCVIII QGG of 23 December 1961, p1335.

53 Award: LXII QGIG of 11 June 1966, p399; Regulations: CCXXIII QGG of 24 December 1966, p1613.

Table 3: Cooks' and Domestic Servants' Weekly Wages - 1919-1966

| Year | Award | Regulations Cooking for Europeans (cooking for Aboriginals) | Regulations as % of Award |
|---|----------------------|--|------------------------------|
| Cook for an Average of 13-30 persons | | | |
| 1919 | \$4.00 | \$6.00 (\$3.50) | 150% (87%) |
| 1933 | \$5.40 | \$2.25 (\$1.88) | 41% (34%) |
| 1945 | \$5.24 | \$2.00 (\$1.50) | 38% (28%) |
| 1950 | \$10.27 | \$7.75 (\$6.25) | 70% (61%) |
| 1961 | \$24.37 | \$12.50 (\$11.25) | 51% (46%) |
| 1966 | \$28.21 | \$16.75 | 59% |
| Domestic Servant over 19 | | | |
| 1919 | not covered by Award | \$1.20 | - |
| 1933 | not covered by Award | Regulations suspended | - |
| 1945 ⁵⁴ | \$3.80 | \$2.00 | 52% |
| 1950 | \$8.69 | \$5.50 | 63% |
| 1961 | \$22.08 | \$9.50 | 43% |
| 1966 | \$25.63 | \$11.00 | 43% |

It has been estimated by May⁵⁵ that to employ white labour on pastoral leases would have cost up to four times more than using Aboriginal labour. To the cost of Award wages would be added overtime, the supply of better food and accommodation, the provision of holiday and sick pay and long service leave. Thus the pastoral leaseholder supplied with Aboriginal labour by the government was greatly subsidised by low labour costs and cheap rentals. Despite low returns on cattle prices, times of drought and flood, and high production and transport costs pastoral leaseholders were able to remain on their leases through bad times when other persons on the land may have had to abandon their holdings or heavily mortgage them.

In November 1964 after agitation by the ACTU and the Queensland Trades and Labour Council,⁵⁶ the Queensland AWU made an application to the Industrial

54 Domestic servants first brought under the Award: (1945) 30 *QIG* 307.

55 May, *supra* n4 p101.

56 Trades and Labour Council of Queensland [C143/64] *Submissions to the Queensland State Government for Equality of Wages and Working Conditions for Aborigines in the Pastoral Industry* Brisbane 6 July 1964.

Conciliation and Arbitration Commission to include Aboriginal workers in the Station Hands Award. After four years of negotiation the pastoralists would only agree to Aboriginal pastoral workers being covered by the Award if the workers could be paid under the slow workers' clause in the Award. Anticipating that all Aboriginal workers would be sacked if the employers were obliged to pay them the full award rates, Commissioner Pont conceded to the pastoralists' demands when he finally handed down the Station Hands' Award in May 1968.⁵⁷ The pastoralists were then given further time to "reorganise and adjust" to having to pay Award wages.

Why did the long-term Labor Government not intervene to raise wages? How were the pastoral leaseholders able to sustain this enormous government subsidy for over half a century? The answer lies in the advantage to successive Queensland Governments of having at their disposal the wages of thousands of workers.

Pocket money wages

By 1964 almost half of the Aboriginal population of Queensland was "under the Act" and more than a quarter of those were employed in the pastoral industry, the largest employer of Aboriginal labour in the State.⁵⁸ Despite the low rates of pay this huge workforce was generating millions of pounds annually in wages, money that had to be paid over to the government to be distributed into various funds to which the workers had little or no access. In hand, the Aboriginal pastoral workers received as pocket money from the employer an amount of up to 50% of the wage for married men and less for other workers.⁵⁹ The pocket money could be spent in the pastoralist's store, though the Regulations forbade purchases from the employer of horses, cattle, vehicles, cycles, guns, land or buildings without the local protector's consent.⁶⁰ The pastoralist viewed the pocket money as the true wage, the rest was an amount to be rendered unto government.

In 1918 the Queensland Parliament had passed the *Wages Act*, the purpose of which was to protect Queensland workers from the common practice of paying wages in commodities or in goods from the company store sold at inflated prices. Under the *Wages Act*, all Queensland employees had to be paid at least monthly in current coin of the realm.⁶¹ Section 19(2) of the *Wages Act* provided that any employment contract which allowed for any deduction from wages without the employee's consent was illegal and void. However the *Wages Act* did not apply to workers under the Act: Aboriginal pastoral wages were subject to deductions and disbursements none of which was made with the worker's informed consent.

The first deduction from the gross wage was income tax. Like the American colonials who commenced the American War of Independence on this very point a

57 *In the Matter of the Station Hands' Award* (1968) 68 *Queensland Government Industrial Gazette* 41.

58 Trades and Labour Council of Queensland submissions, *supra* n56.

59 1919 Regulations, cl 1(k).

60 1919 Regulations, cl 2(vi).

61 *Wages Act* 1918 (Qld), s20(i).

century and a half previously, the Aboriginal worker paid tax but did not have the right to vote. The second deduction was a compulsory contribution to the Welfare Fund⁶² to provide relief for the Aboriginal poor. This system, which was only repealed in 1966,⁶³ was funded by a compulsory levy of 5% for single men and 2.5% for married men on the gross wage of pastoral workers.⁶⁴

The Welfare Fund

Soon after the passing of the 1897 *Protection Act* it became clear that maintaining the Aboriginal reserve system was going to be a drain on the resources of the Queensland Government. The wages and housing allocation for the white functionaries alone were enormous,⁶⁵ to say nothing of housing and food for the residents. It was soon perceived that the Aboriginal people themselves could create the income necessary to provide the upkeep for their unwanted reserves. As early as 1901 a "fund for relief of indigent natives" had been created under the Act. Its function was clearly explained by the Director of Native Affairs in 1941:

the able-bodied earner in the country [the pastoral worker] should make reasonable contribution towards the relief of the indigents of his own race...Settlement natives earning wages in employment outside should contribute towards the maintenance of their dependants living at the Settlement.⁶⁶

On the reserves themselves a workforce for construction and maintenance was provided by compelling all able-bodied persons to give their labour for a minimum of 24 hours a week. Payment for this work was primitive unwanted and segregated housing and a "mission pack" of processed food: meat, flour, tea, sugar and sometimes tobacco.

However a more lucrative way of generating government income was at hand. As permits were required both to leave the reserve and to engage in employment, the government could control the workforce and the industry in which they could be employed. The concentration of skilled Aboriginal labour in the cattle industry and the desire of Aboriginal people to live again on their own country provided the means.

62 Called variously the Indigent Fund and the Aborigines' Provident Fund, it became the Welfare Fund in 1941 after auditors' reports and the Public Service Board found that the monies were being used for wider purposes than those sanctioned: The Consultancy Bureau *Final Report: Investigation of the Aborigines Welfare Fund and the Aboriginal Accounts* Consultancy Bureau Brisbane 1991 ("the Consultancy Report") p 21.

63 Clause 4 of Regulations to the *Protection Act* CCXXI QGG of 30 April 1966, p2106.

64 1919 Regulations, cl 1(l).

65 For example, the annual wages bill of the white workers on Taroom Reserve in 1922 totalled over 1240 pounds: S L'Oste-Brown and L Godwin with G Henry, T Mitchell and V Tyson *Living under the Act: Taroom Aboriginal Reserve 1911-1927* Cultural Heritage Monograph Series Vol 1 Queensland Department of Environment and Heritage Brisbane 1995.

66 The *Consultancy Report*, *supra* n 62 Attachment 1.2: letter from the Director of Native Affairs to the Under Secretary of Health and Home Affairs 30 June 1941.

The levies on pastoral wages formed the basis of the Welfare Fund though it was supplemented by moneys from other sources. From 1904, the wages of an employee who “absconded” (usually to attend a religious ceremony) had been forfeited to a trust account held for the benefit of Aborigines in general.⁶⁷ Later the estates of deceased or missing persons, Commonwealth child endowment and interest on savings accounts were added to the Welfare Fund, all of which should have been credited to individuals’ savings accounts.

By the end of the 1920s times were hard in the pastoral industry. The “largesse” previously distributed by the pastoralists to relatives of their workers was drying up and the physical condition of those dependants was deteriorating rapidly. In 1928 JW Bleakley, the Queensland Chief Protector of Aborigines, presented a report to the Commonwealth Parliament on the condition of Aborigines in central and northern Australia. He reported that the pastoralists were complaining of the financial burden of having to support the dependent old people:

The simplest course would be to remove [the old people] to aboriginal (sic) institutions, where they could be properly cared for and protected from abuse. But to do so, except as a last resource, would be a hardship. Their whole life is bound up in the totemic associations of their tribal habitat and the strange country has unnamed terrors for them ... It was suggested that the possibility of such a burden [of pastoralists looking after them] had been taken into consideration in fixing the rentals for the holdings, and the fairest procedure would be to review these rentals, and the Government then relieve [the leaseholders] of the implied responsibility [by further lowering the rents]. If such is the position, the suggestion might be given consideration.⁶⁸

Bleakley’s understanding that rents on pastoral leases were low because governments expected the lessees to bear some of the financial burden of caring for the Aborigines on their lease is a further argument that Aboriginal people have borne the cost of pastoral leases. From 1923 an amendment to the *Land Acts* (Qld)⁶⁹ had allowed lessees of cattle and sheep holdings to apply to a Magistrates Court to reduce their rentals. Though neither the Act nor the Regulations to the *Lands Act* specifically mention support of Aboriginal people as a mitigating factor, this may have been taken into account. In any case Bleakley’s recommendation implies that this had been part of the objective of low rentals from inception.

Generally the Welfare Fund was not being used to provide food and clothing for the dependants. From their pocket money, in effect the only money they had access to, Aboriginal pastoral workers were burdened with yet another statutory obligation not imposed on Queensland citizens: they had a statutory duty to maintain their

67 Clause 14 of Regulations to the *Protection Act* LXXXII QGG of 26 March 1904, p1187.

68 JW Bleakley *Report on the Aborigines and half-castes of central Australia and north Australia, 1928* in Records of the proceedings and the printed papers [of the Australian Parliament] vol 2 AGPS Canberra 1929, p1167.

69 *Land Acts (Review of Cattle Holding Rents) Amendment Act* 1923 (Qld).

families as far as possible from their earnings.⁷⁰ The Fund which legally existed to provide aid could only be drawn upon after the worker's family proved it was beyond the worker's means to provide for them.⁷¹ In the face of the Great Depression the Queensland Parliament decreed in 1934 that the Welfare Fund could be used for general Aboriginal welfare.⁷² In fact the Welfare Fund was not only used to carry the administrative costs of the reserves but increasingly it was appropriated for the general purposes of government. For example, in 1941 the Under Secretary of the Department of Health and Home Affairs proposed "that 50% of all aboriginal [sic] funds held in trust by the Chief Protector should be commandeered" to make up a shortfall in departmental votes.⁷³ The Fund was also used for investment, for example, the Queensland Government used it to purchase shares in Comalco Ltd which it sold in 1987 for over \$500,000. The purchase takes on sinister overtones when it is considered that the Welfare Fund was also used to defray the costs of removing Aboriginal people from their reserves so that the land could be mined for bauxite.⁷⁴ It was obvious from the state of health and welfare of Aboriginal people that the vast sums accruing in the Welfare Fund (\$16,757,424 in 1990⁷⁵) were not used for the Fund's stated purpose.

The compulsory savings accounts

After the deductions for tax, the Welfare Fund and the pocket money the remainder of the wage, which could be up to 75% for single men, 50% for men with families, 80% for youths⁷⁶ and 90% for female domestic servants,⁷⁷ was paid, usually quarterly,⁷⁸ to the local protector.⁷⁹ He was to deposit it into a compulsory savings account in the Government Savings Bank held in the worker's name but operated solely by himself as trustee.⁸⁰ At his discretion the protector could draw money for the workers from their own accounts but the sum was not to exceed 10 pounds without the Chief Protector's consent. Any amount over 2 pounds had to be paid to the worker by cheque.⁸¹ Though the protector was to spend the wages "solely on behalf of the aboriginal [sic] or female half-caste to whom they were due",⁸² misuse and fraud on

70 1919 Regulations, cl 1(l).

71 *Ibid.*

72 *Protection Act Amendment Act 1934* (Qld), s26(4).

73 *The Consultancy Report supra* n62 Attachment 1.2.

74 *Ibid.*, p22.

75 *Ibid.*, Attachment 2.

76 1919 Regulations, cl 1(k).

77 1919 Regulations, cl 6(i).

78 1919 Regulations, cl 2(ii).

79 *Protection Act 1901*, s12(2).

80 Clause 12 Regulations to the *Protection Act LXXXII* QGG of 26 March 1904, p1187.

81 *The Consultancy Report supra* n62 Attachment 1.5: Circular from Chief Protector to all protectors dated 7 June 1933.

82 *Aboriginals Protection and Restriction of the Sale of Opium Act 1901* (Qld), s12(2).

the trust funds by both government and the protectors were rife.⁸³

From the savings accounts were deducted purchases made by the worker or his or her family in the stores on the reserves. The stores had been established to sell goods such as powdered milk, footwear, toys, or blankets which were not supplied by government. The goods were marked up 25% over the cost price. A purchase was effected by signing a chit as proof of purchase; the amount was then debited from the worker's personal savings account and credited to the store. As many residents could not read, the storekeepers could create fictitious purchases and pocket the money.⁸⁴

Despite the provisions of the Act which provided that medical treatment could be paid from the Welfare Fund,⁸⁵ amounts were also deducted from their savings accounts for the worker or his or her family's medical, dental and hospital treatment.⁸⁶ Further moneys were deducted without consent from individuals' savings accounts to pay for group welfare projects such as providing a house for visiting Aboriginal people at Cloncurry, housing materials and toilets on reserves.⁸⁷

In 1933, to make money available for government investment, between 3000 and 4000 savings accounts were transferred from the country to be held in Brisbane in an aggregate account amounting to over half a million dollars. By 1981 the account held five million dollars.⁸⁸

Conclusion

Both National and Labor Party Governments of Queensland have long acknowledged the importance to them of the pastoral industry: it populates the "uninhabited" north, it generates export dollars and it provides supportive constituencies. From 1897 until 1968, when the responsibility for setting Aboriginal pastoral wages passed to the Queensland industrial commission, the control of Aboriginal pastoral labour was wholly in the hands of the State Government. Successive governments exercised their powers to provide pastoral leaseholders with cheap labour in exchange for the opportunity to use the wages for their own purposes, which included further subsidies to the pastoral industry. In exchange, leaseholders financially benefited from the easy availability of a subjugated workforce which had no power to

83 The *Consultancy Report* uncovered a number of documented cases of fraud on the savings accounts, but the attachment to the Report setting out the particulars was "withheld on Crown Law advice."

84 For example, in 1920 at Taroom, the storekeeper-clerk Robert Kydd embezzled almost 108 pounds from the personal savings accounts of residents who were not reimbursed by Government: S L'Oste-Brown and L Godwin with G Henry, T Mitchell and V Tyson, *'Living under the Act'*, *supra* n65.

85 *Protection Act Amendment Act* 1934 (Qld), s26(4).

86 *The Consultancy Report supra* n62 Attachment 1.2: letter from the Director of Native Affairs to the Under Secretary of Health and Home Affairs 30 June 1941.

87 *The Consultancy Report, supra* n62

88 *Ibid.*

resign but could be laid off in the slack season, and which had no control over its wages and conditions.

The *Protection Acts* freed up land for pastoral purposes by depriving Aboriginal people of their land. Taking advantage of a constant supply of workers ready and eager to leave the reserve for a modicum of freedom on their own country, the government cynically manipulated the Aboriginal pastoral labour force so that it was working for government. Queensland pastoral leases have been paid for by Aboriginal people who have given their land, their labour and their health.