



## **Liquor Hospitality & Miscellaneous Union (LHMU)**

### **Submission to The Senate Legal & Constitutional References Committee**

#### **Inquiry into Stolen Wages**

**2006**

The LHMU is a diverse union drawing membership from a wide range of Industries, which are widely dependant upon strong award conditions and wages. We are passionate about building a just society where our members, their families and communities are entitled to basic entitlements such as:

- A fair wage - At work
- A fair workload - At home
- A fair go - In our communities

We welcome the actions of the Senate Legal and Constitutional References Committee's decision to conduct an Inquiry into the Wages and Savings and the issue of wage justice for Aboriginal & Torres Strait Islander Peoples who had their wages and savings withheld by successive governments since the late 1800's to early 1960's.

This issue known as "Stolen Wages" has long been burning in the State of Queensland, much to the disappointment and frustration of Indigenous peoples affected either directly or indirectly. It has become apparent that there is strong evidence to warrant the establishment of a National Forum to help "set the record straight" and provide an opportunity for those impacted by such legislation to have their voices heard and let it be known to the broader Australian community how unfair past practices of the Protection Act were for Aboriginal & Torres Strait Islander peoples and how this continues to impact on their lives to this day.

The LHMU is hopeful that through this Inquiry and the future establishment of a National Forum that it will assist in providing closure for affected claimants and their families, closure that currently is not available because of a lack of political will to properly identify, address and adequately remunerate and compensate for past treatment and wages withheld.

The trade union movement advocates for those unjustly treated in the workplace and we proudly stand by these values today, unfortunately in those pre-modern times, not only did successive governments fail to see the discriminatory practices it meted out, but so too, did the trade union movement fail by not speaking up for Indigenous people exposed and vulnerable to decades and decades of practices which sought to deny Indigenous workers wages through enforced labour.

Full disclosure and scrutiny is required and we strongly support such a forum being established so that we can demonstrate that we as a modern nation and community have genuine regard for our first nation peoples by opening up, listening and learning. It is important that we should want to be viewed by our international communities as having fair judicious processes in place to allow for fair redress.

Queensland's Indigenous Community have been lobbying for improvements to the reparations offer since first announced in May 2002. The offer gave little time for consultation with Indigenous communities. People had to choose by way of a written expression as to whether to accept or reject within a short timeframe of one (1) month. This was to be further extended following outcries from the community although many had signed an expression of interest in acceptance of the offer and thereby signed the indemnity clause.

The sad point is that the expression of interest had been printed on red paper which were unsuitable for photocopying purposes. People could not retain for their own records copies of the written expression to which they had just signed. People were confused as they really didn't have a clear understanding of what they had signed and could not produce any documentation to their own independent legal people for personal advice afterwards.

The feedback of community consultations to the State Government indicated that the majority of community members were in favour of the initial offer, based upon the information provided to them by QAILSS – Queensland Aboriginal and Legal Services Secretariat. QAILSS were commissioned by the State Government to undertake research, provide a written report to the Government (which ultimately led to the amount of \$55 million being offered by the Government falling significantly short of what the report had estimated and recommended) and carry out community consultations. Communities were informed that there would be follow up meetings following the initial round of community consultations however, this did not occur. Soon after, the Government transferred responsibility for the reparations package offer to the Department of Aboriginal & Torres Strait Islander Policy.

Affected workers had to consider their options, which were as follows:

- 1) To accept was:

- to sign away their rights to any future outstanding claim – although affected workers had no knowledge at the time of exactly how much money had been withheld from them and are unlikely to know still to this day.
- inadequate offer of either \$2000 or \$4000 dependant on age for significant years of work. A survey conducted in 2005 indicated that people felt cheated and that the offer was extremely unfair. Why could they not have their wages returned?
- offer was only applicable to claimants who were alive after May 2002 – denying deceased workers families rights to reclaim monies held in trust.
- offer valid up to 31 December, 2005. Although this was extended to early 2006 because of a backlog of assessments. The Government gave a commitment to assess and honour all eligible claims received by this time.

2) To reject meant:

- taking individual action through the legal system to find relief. This was not an option for many, as many were aged. Many considered this to be grossly unfair and unreasonable in respect to having no other option but to accept the offer as any legal challenge would ultimately be time consuming and which many elderly might not survive waiting for justice.
- continue lobbying for justice.

It has been evident over the last number of years that community groups are reluctant to let this issue of “Stolen Wages” slip away. Community groups continue to voice their concerns and continue to mount pressure on the State Government to revisit this issue.

- They have discussed at length in many statewide community forums about the inadequacy of the offer and how it is not “just”.
- That any balance of the fund should be paid to the workers who are owed and the offer extended to the families of deceased workers. Many families have and will continue to struggle to pay for even the simplest of funerals for their loved ones.
- To remind the Government that the funds held in trust are not public monies and therefore should be rightfully returned.
- The processes established for the Queensland reparation offer has been viewed as being flawed, oral evidence needed to be considered and accepted. It is not the fault of the people that vital records have been lost. It has always been the Governments fundamental responsibility in ensuring that the records were kept in an orderly manner and claimants should not have been penalised for insufficient record keeping to substantiate their claims.

Community groups have long called for a renewed process where a new formula could be established so that each claimant could be considered on merit, dependant on various forms of evidence admitted.

Community groups would like to see the initial offer considered only as a down payment, until such new process could be established and that the indemnity clause which workers were forced to sign, be waived.

In Queensland as of March 2006, just under 5500 claims were assessed as being eligible leaving quite a substantial amount of monies remaining.

The State Government has given undertakings to consult with communities into discussing what to do with remaining monies. The Government has intimated that it is keen to explore using these monies to fund future projects for Indigenous Queenslanders.

So it is timely, that this Inquiry take place at such a crucial time. Indigenous workers are desperately seeking quantified responses and responsible decision making that doesn't seek to disadvantage them once again and repeat past mistakes.

In conclusion we acknowledge the Queensland State Government as being the first jurisdiction in Australia brave enough to offer a reparations package to Queensland's Indigenous peoples for past practices beyond their control. However, the reparations offer needs to be revisited and adequately addressed in order to fairly remunerate and compensate, considering that wages for Indigenous workers under the Act were discriminatory in design and failed to ensure that workers received equal pay for equal work in line with wages for non Indigenous Australians.

Too many lost opportunities. Many Indigenous people will see this as a chance to restore the financial disadvantage and a chance to better their circumstances and to put them in better stead for tomorrow – workers and their forebears missed out on the opportunity to educate their children, to clothe and shelter their families and to raise their families not in poverty, all of which we believe to be fundamental human rights.

The “Stolen Wages” issue extends undoubtedly beyond Queensland's & New South Wales borders and we fully support any process which aims to gain an understanding of the full extent of how similar legislation and practices under the Aborigines Protection Act impacted upon Indigenous peoples nationally.

Jeff Lawrence  
National Secretary  
Liquor Hospitality & Miscellaneous Union  
Level 9, 187 Thomas Street  
Haymarket NSW 2000  
Locked Bag 9  
Haymarket NSW 1240  
Ph: (02) 8204 7200  
Fax: (02) 9281 4480  
Email: lhmu@lhmu.org.au

