

**WAMPAN WAGES  
VICTORIAN STOLEN WAGES WORKING GROUP**

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Attention: Ms Ann Palmer

1 December 2006

Dear Madam,

**Wampan Wages (Victorian Stolen Wages Working Group)**

**Submission to Stolen Wages Inquiry**

**Questions on notice**

I refer to my appearance before the Committee on 28 November 2006. Thank you for hearing from me.

During the course of the hearing I was asked two questions, which I took on notice. I now provide answers as follows:

**1. What documents or records exist which set out the terms of the trusts in which Aboriginal monies were held?**

The research undertaken by Wampan Wages to date comprises largely of a review of the legislative provisions governing the employment of Aboriginal people in Victoria. The provisions of various Aborigines Acts, and regulations made under those Acts, repeatedly state that certain monies are to be used for the benefit of Aboriginal people. The existence of trust relationships can be inferred from the terms of the legislation, but it is difficult to be more explicit about the terms of such relationships without further research.

### Monies from contracts of employment of longer than three months

For instance, the Board for the Protection of Aborigines<sup>1</sup> had power to modify contracts of employment for longer than three months of Aborigines under its control by directing all or any part of money payable to the Aboriginal to be made to a local guardian or other person “instead of to the Aboriginal himself”.<sup>2</sup> Any money received through any such direction, was to be used for the benefit of the Aboriginal or any member of his (sic) family, subject to any express direction by the Board, and must be accounted for to the Board.<sup>3</sup> Provisions to the same effect continued in force in Victoria until 1931.

In 1931, the form of the regulations changed, relevantly, to require that the monies withheld be paid into a trust account in the name of the Aborigine concerned. That money was to be applied and expended as directed by the Board for his benefit or for the benefit of his dependents.<sup>4</sup> The effect of the redrawn power was essentially the same as applied previously, with the addition of the explicit creation of a trust.

### Monies from the sale of marketable goods produced by Aboriginal labour on reserves

In addition, from 1869, the Board could order the sale of marketable goods produced by the labour of Aborigines on reserves, and could pay to the Aborigines who had done the work such sums as it determined having regard to the kind and amount to labour performed by each.

From 1931, the Board had to pay monies received from the sale of such marketable goods into the “Aborigines Board Produce Fund” kept in Treasury. It could then pay to the Aborigines who had laboured on reserves such sums as it determined having regard to the kind and amount to labour performed by each. The Board could direct that Aborigines resident on a reserve do a reasonable amount to work and be remunerated at a rate approved by the Board.

Again, the effect of the redrafted power was the same as previously, with the explicit creation of a trust.

### Wages of children licensed to service and apprentices

In addition, from 1890,

“one half of the wages of every half-caste child licensed to service and of every apprentice shall be paid quarterly viz on the first of January, April, July, October and sent by the employer to the general Inspector of the Board who shall have such money placed to such child’s credit in a savings bank and paid to such child at the end of his or service or apprenticeship, and the other half shall be paid to the child at the end of each quarter’s service or apprenticeship.”<sup>5</sup>

### Creation of a trust in respect of such monies

The exercise of such powers in respect of an Aboriginal person is likely to have created trusts in favour of each Aboriginal person involved, whereby the Board must hold the money withheld for the benefit of the Aboriginal person or his or her family.

<sup>1</sup> Established under the *Aborigines Protection Act 1869* (Vic).

<sup>2</sup> Reg. 6, *Aborigines Protection Regulations 1871*.

<sup>3</sup> Reg. 7, *Aborigines Protection Regulations 1871*.

<sup>4</sup> Reg. 7, *Aborigines Regulations 1931*.

<sup>5</sup> Reg. 17, *Aborigines Protection Regulations 1890*.

It is not possible to be more explicit as to the terms of such a trust, based on the material currently available to Wampan Wages.

Each of these powers continued until 1958, when the conditions of employment of Aboriginal people in Victoria was explicitly made subject to the provisions of any industrial award or determination which may be applicable.<sup>6</sup>

#### Monies standing to the benefit of the Aborigines Board Produce Fund

The Aborigines Board Produce Fund created by the *Aborigines Regulations 1931* was closed by section 12 of the *Aborigines Act 1957*, and all moneys standing to the credit of the Fund transferred to the credit of the Aborigines Welfare Fund established under that Act.<sup>7</sup>

Moneys to the credit of that Fund were to be applied to the payment of expenses of the newly established Aborigines Welfare Board<sup>8</sup> and the members thereof and the administration of the Act,<sup>9</sup> notwithstanding that it is likely that the monies in the Aborigines Board Produce Fund included monies from the sale of goods produced by Aboriginal labour.

On the commencement of the *Aboriginal Affairs Act 1967*, all moneys in the Aboriginal Welfare Fund was to be paid into the Aboriginal Affairs Fund kept in Treasury, and to be applied for the payment of expenses of the Ministry of Aboriginal Affairs and the administration of the Act.<sup>10</sup> No further legislative action was taken in respect of the Fund until 1974.

## **2. What records or documents exist which show that money from the Victorian Aboriginal trusts was paid back into consolidated revenue?**

In its submission (at [32]), Wampan Wages stated that in 1974, moneys standing to the credit of the Aboriginal Affairs Fund were paid to the Commonwealth where the Commonwealth contributed the funds, and all other moneys were paid to the Consolidated Fund.

This statement is based on the provisions of the Victorian *Aboriginal Affairs (Transfer of Functions) Act 1974*, which commenced on 11 January 1975.

Section 8 states:

“Moneys standing to the credit of the Aboriginal Affairs Fund established under the *Aboriginal Affairs Act 1967* shall be applied as follows: -

- (a) Moneys contributed by the Commonwealth shall be refunded to the Commonwealth; and
- (b) All other moneys shall be paid to the Consolidated Fund.”

Section 9 repeals the *Aboriginal Affairs Act 1967*. Thus, the Aboriginal Affairs Fund established by that Act was closed.

Wampan Wages has not seen any other documentation to show that these payments were actually made, but presumes that the State complied with its own legislation. As

<sup>6</sup> Reg. 29, *Aborigines Regulations 1957*.

<sup>7</sup> *Aborigines Act 1957*, s.12(c).

<sup>8</sup> *Aborigines Act 1957*, s.3.

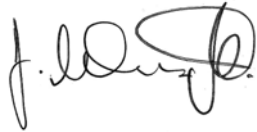
<sup>9</sup> *Aborigines Act 1957*, s.7(3).

<sup>10</sup> *Aboriginal Affairs Act 1967*, s.7(3).

previously submitted, Wampan Wages has seen no indication that any moneys then outstanding to Aboriginal people in Victoria were paid to them at that stage.

I hope this meets the needs of the Committee. If there is anything else I can help with, please contact me. I look forward to reading the Committee's report when it is published later this month.

Yours faithfully

A handwritten signature in black ink, appearing to read 'J. Wright', with a stylized flourish at the end.

Joel Wright

For Wampan Wages