

**WAMPAN WAGES  
VICTORIAN STOLEN WAGES WORKING GROUP**

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Committee Secretary  
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Dear Sir,

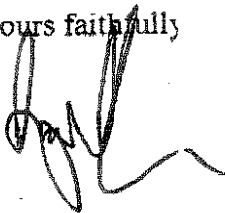
**Wampan Wages (Victorian Stolen Wages Working Group)**

**Submission to Stolen Wages Inquiry**

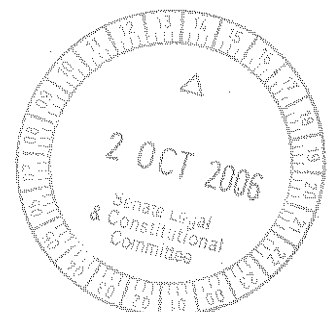
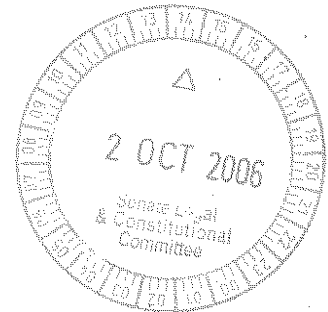
Wampan Wages (the Victorian Stolen Wages Working Group) is an informal, largely voluntary, working group established, among other things, to facilitate research into Stolen Wages and other entitlements due to Aboriginal and Torres Strait Islander people in Victoria. It includes representatives from the Victorian Aboriginal Legal Service, Australians for Native Title and Reconciliation (Vic) Inc. and the National Tertiary Education Union, as well as members of the broader community. Wampan means pay back in Kirrae Whurrong, an Aboriginal language from western Victoria.

I enclose Wampan Wages' submission to the Senate Legal and Constitutional Committee Inquiry into Indigenous Stolen Wages.

Yours faithfully



For Wampan Wages



**WAMPAN WAGES MEANS PAY BACK WAGES**

**Wampan Wages**  
**Victorian Stolen Wages Working Group**

**Submission to**  
**Senate Legal and Constitutional Committee –**  
**References Committee**  
**Stolen Wages Inquiry**

Wampan Wages: Victorian Stolen Wages Working Group

1. The Wampan Wages: Victorian Stolen Wages Working Group (“Wampan Wages”) is an informal working group established to:
  - 1.1. Facilitate research into Stolen Wages and other entitlements due to Aboriginal and Torres Strait Islander people in Victoria; and
  - 1.2. Support people with such entitlements in their efforts to gain compensation for that loss.

Scope of Submission

2. This Submission addresses terms of reference (b), (c), (d), (e), (f), (g), and (i).
3. It should be noted that there has been relatively little time to complete this submission to address all the terms of reference in detail. There is a substantial amount of material held in State and Commonwealth archives that might be relevant to these issues. However, little if any research has been done on that material to date. Wampan Wages is preparing an application for funding for such research. It is likely that on completion of that research, the questions behind the terms of reference could be addressed at a greater level of detail.

Background

Queensland

4. The stolen wages issue emerged first in Queensland. Substantial research from the mid 1990s showed a chronic failure to pay wages due to Indigenous people by government and government agencies. These wages were for work done by Aboriginal and Torres Strait Islander people during a long period, from about 1900 right up to the 1980s. Wages were paid on their behalf to the controllers of the missions and reserves where they lived. Those people were never paid the wages due to them.
5. The research led to a strong campaign for payment of the wages due, interest on them over many years and compensation. Payment was sought to the people who had done the work or were entitled to payment or their descendants.
6. Eventually, the Queensland Government offered partial reparation for stolen wages. In May 2002, it allocated \$55.4 million for individual capped payments of

\$2000 or \$4000 to Aboriginal people who could prove their wages and savings had been appropriated under the Aboriginal "Protection" Acts, in force from the 1890s to the early 1970s. There was a \$4000 payment available to those born before 1951 and \$2000 to those born from 1951 to 1956. Payments made depended on a claimant's age and took no account of how much had not been paid.

7. Application for this partial reparation had to be made by the end of January 2006. Obviously, this was unacceptable to people who have been owed amounts much larger than this for a long period of time. Many refused the offer. The Stolen Wages Campaign continues in Queensland. Wampan Wages supports those Indigenous people in Queensland in that campaign for payment of wages and other entitlements due to them.

#### New South Wales

8. Similarly, in NSW, the Aborigines Protection Board (later the Aborigines Welfare Board) was given broad powers to 'exercise a general supervision and care over all matters affecting the interests and welfare of Aborigines'. It had power over the earnings, savings and entitlements of many Aboriginal people.
9. Between 1900 and 1969, sums of moneys were placed in trust accounts controlled by the Board in the names of individual Aboriginal people. The trust accounts were closed down in 1969 and the remaining funds were transferred to the Department of Youth and Community Services. However, despite many years of campaigning by Aboriginal people, the moneys owing to many individuals or their descendants have never been recovered.<sup>1</sup>
10. After the Queensland experience and after campaigning in NSW, the then Premier Bob Carr formally apologised on behalf of the Government in March 2004, and established an Aboriginal Trust Fund Reparation Scheme Panel to consult with the Aboriginal community in NSW as to how a repayment scheme should operate. Its report was submitted to Cabinet in October 2004, and on 15 December 2004 the NSW Government accepted all of its recommendations, and established the Aboriginal Trust Fund Repayment Scheme ("ATFRS").
11. The ATFRS is an evidence-based scheme that will operate over five years. Claims will be paid out where there is *certainty, strong evidence or strong circumstantial evidence* of money being paid into the trust and *no evidence or unreliable evidence* that money was paid out. Claims will be paid in full with compound interest.<sup>2</sup>
12. In addition, the NSW Government will assist claimants to prove their cases for payment of stolen wages. Additionally, counselling services will be made available to all claimants in recognition of the unpleasant or traumatic memories that may be brought up in making a claim.
13. These campaigns for payment of stolen wages have been supported by the ACTU Indigenous Policy Committee, and by the ACTU Executive.

#### Victoria

<sup>1</sup> See A. Teo, *Stolen Wages Update: Establishment of the NSW Aboriginal Trust Fund Repayment Scheme*, [2005] ILB 12.

<sup>2</sup> *Ibid.*

14. To our knowledge, there have been no previous investigations by the Victorian Government into official management of specifically Indigenous monies. Nor are there any current measures to disclose evidence of historical financial controls to affected Indigenous families. As yet, the State has made little or no commitment to quantify wages, savings and entitlements missing or misappropriated under official management, and made no undertakings to repay or compensate any Aboriginal people who suffered physically or financially under 'protection' regimes.
15. There is certainly a need in Victoria to set the record straight regarding the complexity and the consequences of mandatory controls over Indigenous labour and finances during most of the 20th century.
16. There is some indication from the Aboriginal community of Victoria that the issue of stolen wages may be relevant to Victoria, especially in the Warrnambool region, in Gippsland and in the Loddon Valley. However, further investigation and consultation is required to ascertain the extent and significance of the Stolen Wages issue in Victoria.
17. An application for funding for research into the incidence and effect of the underpayment or non-payment of wages and other entitlements in Victoria is being prepared by Wampan Wages.
18. Wampan Wages has been established to undertake such research and to support community members who seek to have those wages paid. It comprises representatives of the Victorian Aboriginal community, the Trade Union movement, the Victorian Aboriginal Legal Service Co-operative Limited, Australians for Native Title and Reconciliation (Vic) Inc, and members of the general public.
19. There is a need for further research to be undertaken to ascertain, among other things:
  - 19.1. The nature of the legislative and policy regime that has governed the payment of wages and other entitlements to Indigenous people in Victoria;
  - 19.2. The method and consequences of the official management of Indigenous monies;
  - 19.3. Whether wages and other entitlements have properly been paid to the Indigenous people entitled to them; and
  - 19.4. The methods by which any wages, savings and entitlements missing or misappropriated under official management might be quantified;
  - 19.5. The methods by which evidence of historical financial controls and information about any missing or misappropriated wages, savings and entitlements might be made available to affected Indigenous families; and
  - 19.6. Whether the State Government is responsible to repay and/or compensate those who suffered physically or financially under such 'protection' regimes.

#### Historical overview of the regulation of Aboriginal labour in Victoria

20. Preliminary research suggests that Aboriginal labour in Victoria has historically been exploited through forced labour conditions introduced by the State as a

requisite to being permitted to reside on an Aboriginal reserve. This primarily involved the production of agricultural, pastoral, and mineral products that were sold on the open market for profits that were paid into trusts or State consolidated revenue. Some wages were paid to some of these Aboriginal workers, but these wages were not equivalent to wages or conditions enjoyed by non-Indigenous people in comparable occupations.

21. In addition, many Aboriginal Victorians enlisted in the armed services and served in all the wars involving Australia. Returned service men and women generally received a dowry for their services. There is anecdotal evidence that dowries were never paid to many Indigenous returned service men and women from Victoria.
22. Commonwealth benefits such as Child Welfare payments have also been identified by community members as funds held in trust with only partial payment and or no payment being made to the proper recipients.

#### Preliminary history of Victoria's dealings with Aboriginal people<sup>3</sup>

23. Victoria was established as a self-governing colony in 1851. Initial research shows that the Central Board for Aborigines was appointed in 1860. Further research might identify what occurred prior to 1869, when the Board for the Protection of Aborigines was first established. The following is based on the terms of the legislation and regulations in force from time to time that governed Aboriginal people's employment, and their relations with the colony and later the State of Victoria.
24. From 1869 the Governor in Council had the power to make orders prescribing the terms of any employment contract entered into by an Aboriginal person. Each contract had to be approved by the Board, local guardian or authorized agent of the Board. Approval took the form of a work certificate, issued with certain conditions attached regarding the apportionment of earnings. The Board had the power to modify any contract to direct all or any part of the money payable to the Aboriginal person to some local guardian or other persons specified. The money could be used for the benefit of the Aboriginal person or any member of their family, and had to be accounted for to the Board.
25. This power continued to exist until 1957. Further research should be carried out seeking Board minutes and any other record keeping for these accounts.
26. During this period, where marketable goods were produced on a reserve, money received from the sale of any such goods was to be collected by the Board, and distributed in 'such sums as the Board may deem right having regard to the kind and amount of labour performed by each' Aboriginal person.
27. From 1886, the powers of the Board were extended to prescribing the conditions on which 'half caste' infants could be licensed to work or be apprenticed. From 1890, half the wages of every half-caste child licensed to service and of every apprentice were to be paid quarterly by the employer to the general Inspector of the Board who was to have the money placed to the child's credit in a bank. Half was to be paid to the child quarterly, and half at the end of his service or

<sup>3</sup> This summary is based on a consideration of legislation and regulations dealing with Aboriginal people. Comparison should be made with the general overview of the situation in NSW described above.

- apprenticeship. There is no indication presently available that such moneys were paid.
28. From 1931, the Board could modify an employment contract to direct that monies payable to the Aboriginal person could be paid to the Secretary of the Board, and paid into a trust fund set up in the name of the Aboriginal person involved. This could be 'applied and expended as may be directed by the Board for his benefit or for the benefit of his dependents'. Further, monies received from the sale of marketable goods produced on reserves were to be paid into a trust fund kept in the Treasury termed the Aborigines Board Produce Fund.
  29. The Board for the Protection of Aborigines and the Aborigines Produce Fund were dissolved in 1957, and replaced by the Aboriginal Welfare Board and Aboriginal Welfare Fund. The Superintendent of Aborigines Welfare was also established, which was still responsible for distributing moneys apportioned by Parliament and any other funds or property in its possession. The Aboriginal Welfare Fund was expressly kept in Treasury. All monies appropriated by Parliament, and all moneys received by the Board were to be paid into the Fund. The Board was required to produce an annual report to be tabled in Parliament. Further research might locate these annual reports and identify what happened to any moneys owed to Aboriginal workers.
  30. From 1957, conditions improved slightly, though substantial power was still retained by government over Aboriginal employment. For instance, power to prescribe the conditions of employment of Aborigines was subjected to industrial awards or determinations that applied to the employment concerned. On the other hand, from 1958, no person was allowed to employ any male Aboriginal under the age of 18 years or any female Aboriginal without the approval of the Board, nor employ any Aboriginal under conditions whereby such Aboriginal is exposed to influence deleterious to his health.
  31. In 1967, the Aboriginal Welfare Board was replaced by the Minister of Aboriginal Affairs. The Aboriginal Affairs Fund was established in Treasury and all moneys from previous funds and from funds appropriated by Parliament were paid into the Fund.
  32. 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. Legislation dealing specifically with Aboriginal People in Victoria was repealed in 1974. There is no indication that any moneys then outstanding to Aboriginal people in Victoria were paid to them at that stage.
  33. Failure to pay wages and other entitlements due is likely to have had an ongoing effect on Aboriginal people in Victorian and their families over the generations. That failure continues to condemn Aboriginal people to the poverty trap in which they have been languishing since white settlement.

#### Specific suggestions for further research

34. The operations of the various Boards and Funds were highly regulated, and as a result the following records ought be recoverable through further research:
  - 34.1. Moneys directed to other sources by the Board pursuant to s.6 of the *Aborigines Protection Regulations* 1871 had to be accounted for to the

Board. Similarly, the Board was required to provide to the Governor annual budgets and actual expenditure statements regarding wages and distribution of moneys. This level of regulation ought to enable records of how this money was distributed to be uncovered through minutes, annual reports, statements etc.

- 34.2. The Aboriginal Welfare Board which administered the Aboriginal Welfare Fund following the introduction of the *Aborigines Act 1957* (Vic), was required to submit to the Minister an annual report to be tabled in Parliament.
  - 34.3. The Superintendent of Aborigines Welfare and other officers of the Board who distributed moneys were required to keep statements and records. The Manager of Lake Tyers was also required to report monthly on a number of matters including the nature of the work done and proposed to be done.
  - 34.4. Further, in 1957 the powers of the Board to prescribe employment conditions became subject to industrial awards or determinations. It would be prudent to source the industrial awards that might be applicable and ascertain any provisions that pertain to Aboriginal people and wages.
  - 34.5. In other states such as Queensland, research has revealed actual statements by the Directors of such funds as to how they might have been used or in relation to inappropriate usage.
35. These records would considerably expand and extend the results of the preliminary work done to date. There is a need for further research to be done in Victoria to ascertain the extent of the impact of the Stolen Wages issue on Indigenous communities in Victoria.
  36. The Victorian Government should act to rectify such a situation, if it exists, so that its actions when assessed over a period of over 100 years, more accurately meet the description of the attitude to Aboriginal people described in the Victorian Constitution. In the interests of good government, the State Government should assess its liabilities to Aboriginal people in this regard and consider appropriate means to address them.
  37. It is not appropriate for Indigenous claimants of unpaid or misappropriated wages and other entitlements to be put through the traumatic processes of litigation to recover their entitlements. Government should consider a scheme whereby such entitlements can be swiftly and easily repaid to indigenous people.
  38. The first step in such a scheme is to determine the nature and extent of any such liability and to identify the range of people who might be entitled to repayment of wages and other entitlements.
  39. Further research is necessary to enable it to work out a method for doing so. The Victorian Stolen Wages Working Group proposes that the State Government support research into the Stolen Wages issue in Victoria.
  40. That research should include investigating and determining:
    - 40.1. The nature of the legislative and policy regime that has governed the payment of wages and other entitlements to Indigenous people in Victoria;

- 40.2. The identity and quantity of the labour exploitation through the employment of Indigenous people in Victoria from first contact with Europeans through to the present day;
  - 40.3. The method and consequences of the official management of Indigenous monies;
  - 40.4. Whether wages and other entitlements have properly been paid to the Indigenous people entitled to them;
  - 40.5. The immediate and intergenerational economic impact of the exploitation of Indigenous labour in Victoria;
  - 40.6. The methods by which any wages, savings and entitlements missing or misappropriated under official management might be quantified;
  - 40.7. The identity of communities, groups and individuals subjected to the exploitation of labour, and specifically to identify people and/or the descendants of people whose labour has been exploited in order to ascertain whether they have any entitlement to compensation for this exploitation;
  - 40.8. The methods by which evidence of historical financial controls and information about any missing or misappropriated wages, savings and entitlements might be made available to affected Indigenous families; and
  - 40.9. Whether the State Government is responsible to repay and/or compensate those who suffered physically or financially under such 'protection' regimes.
41. The potential for exploitation described above and the actual exploitation found in Queensland and NSW is not at all consistent with the recognition of the unique status and contribution of Aboriginal people to Victoria. It is appropriate that the Victorian Government take steps to determine whether such exploitation did in fact take place and, if it did, to take action to remedy the situation.
  42. The potential for exploitation of Aboriginal labour described above should be considered in the current context of the Commonwealth's attitude towards Aboriginal people shown by its policies regarding 'Shared Responsibility Agreements', whereby it undertakes to provide basic services to Aboriginal people that should be provided to all citizens, only in terms of some 'mutual obligation'.
  43. The Commonwealth's current removal of regulation directed at protecting vulnerable people in the workplace, through the WorkChoices policy. With the introduction of WorkChoices, there is an even more pressing need for Indigenous people to be able to take an active role in advocating for their industrial rights, and to be aware of the extent of those rights.
  44. It is inappropriate for Indigenous claimants of unpaid or misappropriated wages and other entitlements to be put through the traumatic processes of litigation to recover their entitlements. Government should consider a scheme whereby such entitlements can be swiftly and easily repaid to indigenous people. The first step in such a scheme is to determine the nature and extent of any such liability and to identify the range of people who might be entitled to repayment of wages and other entitlements.

#### Inquiry Terms of Reference



45. The Victorian Stolen Wages Working Group addresses the inquiry terms of reference as follows:
- (a) The approximate number of Indigenous workers in each state and territory whose paid labour was controlled by government; what measures were taken to safeguard them from physical, sexual and employment abuses and in response to reported abuse*
46. No comment.
- (b) All financial arrangements regarding their wages, including amounts withheld under government control, access by workers to their savings and evidence provided to workers of transactions on their accounts; evidence of fraud or negligence on Indigenous monies and measures implemented to secure them; imposition of levies and taxes in addition to federal income tax*
47. The Committee is referred to the description of the historic legislative schemes set out above.
- (c) What trust funds were established from Indigenous earnings, entitlements and enterprise; government transactions on these funds and how were they secured from fraud, negligence or misappropriation*
48. The Committee is referred to the description of the historic legislative schemes set out above.
- (d) All controls, disbursement and security of federal benefits including maternity allowances, child endowment and pensions, and entitlements such as workers compensation and inheritances*
49. The Committee is referred to the description of the historic legislative schemes set out above.
- (e) Previous investigations by states and territories into official management of Indigenous monies*
50. To our knowledge, there have been no previous investigations by the Victorian Government into official management of specifically Indigenous monies. A proposal for research to be undertaken into these matters is being prepared.
- (f) Current measures to disclose evidence of historical financial controls to affected Indigenous families; the extent of current databases and resources applied to make this information publicly available; whether all financial records should be controlled by a qualified neutral body to ensure security of the data and equity of access*
51. There are no current measures to disclose evidence of historical financial controls to affected Indigenous families.
- (g) Commitments by state and territory governments to quantify wages, savings and entitlements missing or misappropriated under official management; the responsibility of governments to repay or compensate those who suffered physically or financially under 'protection' regimes*
52. As yet, the State has made no little or no commitment to quantify wages, savings and entitlements missing or misappropriated under official management, and made no undertakings to repay or compensate any Aboriginal people who suffered physically or financially under 'protection' regimes.

53. However, the Stolen Wages issue has been raised with the Indigenous Policy Committee of the Victorian Branch of the Australian Labor Party, which supported a proposal that the Minister for Aboriginal Affairs consider supporting research into the issue of stolen wages in Victoria. The Victorian State (Labor) Minister for Aboriginal Affairs (Mr Gavin Jennings) has acknowledged the possibility of supporting research into the incidence and effect of the underpayment or non-payment of wages and other entitlements in Victoria.
54. The Victorian Stolen Wages Working Group has been established to undertake research into Stolen Wages in Victoria and to support community members who seek to have those wages paid. It comprises representatives of the Victorian Aboriginal community, the Trade Union movement, the Victorian Aboriginal Legal Service, Australians for Native Title and Reconciliation (Vic) Inc, and members of the general public.
- (h) What mechanisms have been implemented in other jurisdictions with similar histories of indigenous protection strategies to redress injustices suffered by wards*
55. No comment.
- (i) Whether there is a need to 'set the record straight' through a national forum to publicly air the complexity and the consequences of mandatory controls over Indigenous labour and finances during most of the 20th century.*
56. There appears to be a need in Victoria to set the record straight regarding the complexity and the consequences of mandatory controls over Indigenous labour and finances during most of the 20th century. However, setting up a national forum to do so should only be done after appropriate consultation with affected Indigenous communities.

**Wampan Wages**

**Victorian Stolen Wages Working Group**

**29 September 2006**