

# CHAPTER 1

## INTRODUCTION

1.1 On 13 June 2006, the Senate agreed to a motion moved by the Australian Democrats and referred the following matters to the Standing Committee on Legal and Constitutional Affairs, for inquiry and report by the last sitting day of 2006:

With regard to Indigenous workers whose paid labour was controlled by Government:

- (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 abuses;
- (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;
- (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;
- (d) all controls, disbursement and security of federal benefits including maternity allowances, child endowment and pensions, and entitlements such as workers compensation and inheritances;
- (e) previous investigations by states and territories into official management of Indigenous monies;
- (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;
- (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;
- (h) what mechanisms have been implemented in other jurisdictions with similar histories of Indigenous protection strategies to redress injustices suffered by wards; and
- (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.

## Conduct of the inquiry

1.2 The committee advertised the inquiry in *The Australian* newspaper on 21 and 27 June 2006; 5 and 19 July 2006; 16 and 30 August 2006; 13, 19 and 27 September 2006; 11 and 25 October 2006; and 8 November 2006. The inquiry was also advertised in the *Courier Mail* on 1 July 2006, the *Koori Mail* on 5 July 2006, and the *National Indigenous Times* on 13 July 2006.

1.3 The committee also wrote to over 100 organisations and individuals inviting submissions. Initially, submissions were invited by 28 July 2006 and this was later extended to 29 September 2006. However, the committee continued to accept public submissions after this date. Details of the inquiry were placed on the committee's website.

1.4 The committee received 129 submissions from various individuals and organisations, as well as several supplementary submissions, and these are listed at Appendix 1. Submissions were placed on the committee's website.

1.5 The committee held public hearings in Brisbane on 25 October 2006; in Sydney on 27 October 2006; in Perth on 16 November 2006; and in Canberra on 28 November 2006. A list of witnesses who appeared at the hearings is at Appendix 2, and copies of the Hansard transcript are available through the Internet at <http://www.aph.gov.au/hansard>.

## Acknowledgements

1.6 The committee thanks those organisations and individuals who made submissions and gave evidence at public hearings, especially those individuals who shared their personal experiences with the committee.

1.7 The committee also acknowledges the submissions provided by the Queensland and New South Wales (NSW) Governments, and the appearance by a Queensland Government representative at the public hearing in Brisbane.

1.8 The committee did not receive submissions from the Western Australian, South Australian, Tasmanian or Victorian Governments.<sup>1</sup> The committee believes that state governments would have been able to provide valuable assistance to the inquiry and is disappointed that these governments did not participate.

1.9 The committee received a submission from the Chief Minister of the Northern Territory which outlined the administrative history of the Northern Territory. Between

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1 The committee received correspondence from the Victorian Premier and the Acting Tasmanian Premier indicating that those states would not be participating in the inquiry: correspondence from The Hon. Steve Bracks MP, Victorian Premier to Committee Secretary, 23 August 2006; and correspondence from Mr David Llewellyn MHA, Acting Tasmanian Premier to Senator Trish Crossin, Committee Chair, 24 August 2006.

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1911 and 1978 the Northern Territory was the responsibility of the Commonwealth Government and any records relating to this period would be held in Commonwealth Archives. Prior to 1911, the Northern Territory was administered under a variety of different arrangements. For this reason, the Chief Minister believed that there was little that the Northern Territory Government could contribute to the inquiry by way of factual material.<sup>2</sup> The committee therefore pursued issues in relation to the Northern Territory with the Commonwealth Department of Families, Community Services and Indigenous Affairs (FaCSIA). The committee notes that FaCSIA did not provide a formal submission to the committee. However, FaCSIA did provide limited information on Commonwealth legislation. The committee acknowledges that representatives from FaCSIA did appear before the committee. Nonetheless, the committee is disappointed that FaCSIA has not pursued the issue of stolen wages, instead adopting a more reactive approach.

1.10 In the absence of submissions and evidence from a number of state governments, the committee would like to thank the witnesses and submitters who shared their research and specialist knowledge on the management of Indigenous monies and government archives. The information and evidence provided have been invaluable to the committee in addressing the inquiry's terms of reference.

### **Scope of the inquiry**

1.11 The terms of reference for this inquiry relate to 'Indigenous workers whose paid labour was controlled by Government'. Throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries, governments put in place extensive controls over the employment, working conditions and wages of Indigenous workers. These controls permitted, both explicitly and implicitly, the non-payment of wages to some Indigenous workers, as well as the underpayment of wages, and the diversion of wages into trust and savings accounts.

1.12 Due to the wide-ranging implications of governmental control of wages, the committee has taken an expansive view of the terms of reference as it considers that where controls permitted the non-payment of wages, this was, in turn, a form of control of workers' opportunities and their ability to undertake paid employment.

1.13 The committee also notes that this inquiry has come to be known as the 'Stolen Wages' inquiry. The committee notes that the term 'stolen wages' is an ambiguous term which may mean different things to different people. In the context of this inquiry, it refers to all wages, savings, entitlements and other monies due to Indigenous people during the periods where governments sought to control the lives of Indigenous people.

1.14 The committee acknowledges that much of the evidence and discussion in this report is centred on the experiences of Queensland and NSW. The committee feels that this reflects the fact that this issue has received widespread recognition in those

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2 *Submission 110*, p. 2.

states, particularly within the Indigenous communities. In other states and the Northern Territory, there has been some research undertaken and awareness of the issue is gradually increasing. The committee hopes that its report and recommendations assist in raising awareness in all states and territories about this issue.

1.15 The committee has received compelling evidence that governments systematically withheld and mismanaged Indigenous wages and entitlements over decades. In addition, there is evidence of Indigenous people being underpaid or not paid at all for their work. These practices were implemented from the late 19<sup>th</sup> century onwards and, in some cases, were still in place in the 1980s. Indigenous people have been seriously disadvantaged by these practices across generations. Many of those affected are now elderly and in poor health. It is therefore imperative that governments take immediate action to address these injustices. It would be an abrogation of moral responsibility to delay any further, particularly with the knowledge that the age and infirmity of the Indigenous people affected by these practices limit their capacity to pursue claims.

### **Structure of the report**

1.16 The committee's report is structured in the following way:

- Chapter 2 provides an overview of government controls on employment, wages and social security entitlements applied to Indigenous people through the 19<sup>th</sup> and 20<sup>th</sup> centuries;
- Chapter 3 reviews the controls on the payment of Commonwealth social security entitlements to Indigenous people;
- Chapter 4 considers the evidence relating to trust funds and savings accounts established on behalf of Indigenous people, and also the misappropriation and mishandling of Indigenous money;
- Chapter 5 examines the impact of employment and wages control on Indigenous people;
- Chapter 6 measures the effort undertaken by governments to disclose evidence of the financial control and also reviews the ability of Indigenous people to access their financial records and documents;
- Chapter 7 provides an overview of the Queensland and NSW reparations and repayment schemes that have been developed and implemented; and
- Chapter 8 presents the committee's summary and conclusions.

### **Note on references**

1.17 References in this report are to individual submissions as received by the committee, not to a bound volume. References to the Committee Hansard are to the proof Hansard: page numbers may vary between the proof and the official Hansard transcript.

**Terminology and warning**

1.18 The legislation cited in this report contains specific terms and definitions for Indigenous people which today are considered offensive. The committee has endeavoured to avoid using such terms in this report; however, these terms were included in the technical detail of the legislation at that time. The committee wishes to emphasise that where these terms have been included in the report, they are not intended to cause offence.

1.19 Indigenous readers are warned that the report also contains the names of some Indigenous people who are deceased.

