



11 October 2006

Senate Legal and Constitutional Affairs Committee
Committee Secretary
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

By email (legcon.senate@aph.gov.au)

Dear Committee Secretary

Inquiry into Stolen Wages

The Law Institute of Victoria (LIV) commends the establishment of an Inquiry into Stolen Wages (Inquiry). However, the LIV echoes concerns raised by various indigenous organisations about the relatively short timeframe allowed for the completion of the Inquiry (Report due by 7 December 2006). The LIV suggests that this severely limits the amount of relevant material that can be submitted, investigated and considered.

1. Lack of investigation from a Victorian perspective

As a professional law association, the LIV is not in a position to provide detailed information on the Inquiry's terms of reference topics in paragraphs (a) to (h), other than to highlight the particular concern that information in relation to the extent of unpaid monies to indigenous workers (Stolen Wages) in Victoria is largely unknown.

To date, action on Stolen Wages has been largely confined to Queensland and New South Wales, however, it is clear that the issue is relevant in Victoria due to:

- the existence of legislation (i.e. *Aborigines Protection Act 1869 (Vic)*) which introduced mechanisms by which money was withheld from indigenous persons, including children apprenticed to work for missions and homes; and
- anecdotal evidence, as presented in the written submission to the Inquiry from the Victorian Aboriginal Legal Service Co-operative Ltd (VALS).

No comprehensive analysis has been undertaken to ascertain how widespread the practice of holding money in trust was in Victoria, or where any trust money ended up.

The LIV refers to the submission made to the Inquiry by Dr Roslyn Kidd (Submission 49), who is the leading researcher on the topic of Stolen Wages. Dr Kidd's submission examines the scope of the issue from a national perspective. However, the comments concerning Victoria are largely speculative due to the lack of research undertaken in Victoria on the issue.

Indigenous groups in Victoria have called for an investigation to determine how widespread the practice of holding money in trust for indigenous workers was in Victoria, but these calls have gone unheeded. When the Queensland Government announced a repatriation offer to indigenous workers in 2002, Victorian Premier Steve Bracks indicated his government was watching the issue with interest (*The Australian*, 17 May 2002), but so far there has been no attempt by the government to examine the Victorian dimension of the issue.

In light of the above, it is disappointing that the Inquiry is only holding public hearings in Brisbane and Sydney during October 2006. The LIV recommends that the Inquiry should have a truly national focus with public hearings held in all states and territories. In particular, public hearings should be held in those parts of Australia where little attention has been paid to the issue of Stolen Wages, such as Victoria.

Further, the LIV notes that not all indigenous people will have the opportunity to provide a written submission for various reasons. It is important that all persons have the chance to have their say and set the record straight about Stolen Wages.

The LIV also recommends that the Inquiry should be supported by a team of qualified researchers to undertake research and analyse the vast amount of documents in existence on the issue. Moreover, this research team should be given access to any relevant documentation from the federal or state government archives.

The LIV endorses the comments of the Human Rights and Equal Opportunity Commission (HREOC) regarding the importance of underpayment in any comprehensive examination of Stolen Wages. The LIV reiterates its concern that in light of the size of this task the timelines which the Committee is operating under jeopardise the comprehensiveness of the final report.

2. National forum


In relation to paragraph (i) of the terms of reference, the LIV submits that the spirit of reconciliation would be assisted through a national forum to publicly air the complexity and the consequences of mandatory controls over indigenous labour and finances. It is important that the wider public has an understanding of past policies of unpaid labour. A public forum would also assist in acknowledging and raising awareness of the important contribution made by the indigenous population to the economic wealth of this nation.

3. Compensation

The LIV submits that the Inquiry should also recommend a mechanism by which compensation might be provided to redress any injustice uncovered by the investigation. The LIV endorses the best practice recommendations contained in the VALS' submission in the event that the Inquiry leads to the establishment of a fund to compensate indigenous Australians. The LIV endorses the VALS' recommendation that any compensation consist of adequate and not "token" funds.

The LIV notes the criticism of the Queensland government's process for addressing Stolen Wages issue due to the perceived token nature of compensation.¹ The LIV suggests that such a process would harm, rather than further, the cause of reconciliation.

Yours sincerely



Catherine Gale
President
Law Institute of Victoria

¹ See for instance "Social Justice Commissioner renews calls on Queensland stolen wages", HREOC media release, 8 July 2005 http://www.hreoc.gov.au/media_releases/2005/26_05.html.