



# **ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE**

## **INDIGENOUS STOLEN WAGES**

Watarru Room, Old Parliament House, Adelaide

Monday, 29 April 2019 at 12:40pm

(OFFICIAL HANSARD REPORT)  
**PARLIAMENT OF SOUTH AUSTRALIA**



## MEMBERS:

Hon. J.S.L. Dawkins MLC (Presiding Member)  
 Hon. T.A. Franks MLC  
 Hon. K.J. Maher MLC  
 Mr S.J. Duluk MP  
 Mr F.J. Ellis MP  
 Mr E.J. Hughes MP

## WITNESS:

GUNSTONE, ANDREW, Executive Director, Reconciliation Strategy and Leadership; Executive Director, Moondani Toombadool Centre; and Professor, Indigenous Studies, Swinburne University

1 The PRESIDING MEMBER: Professor Gunstone, welcome to the committee. Thank you for appearing before the Aboriginal Lands Parliamentary Standing Committee. A transcript of your evidence today will be forwarded to you for your examination for any clerical corrections. Should you wish at any time to present confidential evidence to the committee, please indicate and the committee will consider that request.

Parliamentary privilege is accorded to all evidence presented to the committee and, therefore, protects the witness from any legal action arising in regard to the evidence. However, witnesses should be aware that privilege does not extend to statements made or documents circulated outside this meeting. The committee will consider any documents presented to it and will determine whether the documents will be received and form part of the evidence. All persons, including members of the media, are reminded that the same rules apply as in the reporting of parliament.

Finally, the committee acknowledges Aboriginal and Torres Strait Islander people as the traditional owners of this country throughout Australia and their connection to land and community. We pay our respects to them and their cultures and to elders both past and present. I am John Dawkins, Presiding Member of the committee. I will introduce the other members of the committee. On my right are Mr Sam Duluk and Mr Fraser Ellis. We have Dr Ashley Greenwood, our executive officer, whom I think you have met. We have the Hon. Kyam Maher, Mr Eddie Hughes and the Hon. Tammy Franks. Over to you, sir.

Prof. GUNSTONE: Thank you very much, and thanks for the opportunity to be here today. I have an opening statement, which I will read out, and I will be very happy to answer some questions after that. First of all, I would like to respectfully acknowledge the Kurna people who are the Traditional Owners of the land on which we meet today, and pay my respects to their Elders past, present and emerging. I also respectfully acknowledge the Wurundjeri people of the Kulin Nation in Victoria who are the Traditional Owners of the land on which I live and work, and acknowledge the continuing sovereignties of Aboriginal and Torres Strait Islander people.

My name is Professor Andrew Gunstone and I am the inaugural Executive Director of Reconciliation Strategy and Leadership at Swinburne University and Professor of Indigenous Studies. I have a whole-of-institution responsibility in relation to the university's Reconciliation Action Plan, and on all Indigenous matters, including research, teaching, staff, students and engagement.

I don't get as much time to research as I used to but over the last few years I have been researching stolen wages policies in Victoria and the history and impact of those policies. I have conducted a number of consultations with Victorian communities and conducted archival research in the National Archives of Australia.

As I discussed with Ashley, while I cannot comment on the specific history of stolen wages in South Australia as I have not researched this area, I am very happy to comment on the general history of stolen wages, the Indigenous-led political campaigns for reparations over the last 20 years and the compensation schemes developed by several states to address this history.

For well over 150 years, the wages, savings and social security benefits of Indigenous peoples were controlled by Australian governments and their agencies such as Aboriginal protection boards. This history is referred to as the stolen wages practices. The legislation concerning Indigenous affairs significantly varied between Australian states and territories during the 19<sup>th</sup> and 20<sup>th</sup> centuries. Therefore, the literature on stolen wages has largely concentrated on the history and impact of stolen wages policies in specific Australian states and territories. So far the literature has mainly looked at Queensland, New South Wales and Victoria, and there is limited literature on the history and impact of stolen wages in other states and territories.

Having looked at the literature, it illustrates the significant diversity amongst states and territories. For example, Victoria only had one staffed government reserve after the 1920s compared to some other states which had many more. However, despite this diversity, the literature reveals a broad range of stolen wages practices that were generally common throughout Australia. So in my research and that of other academics, stolen wages often seems quite a broad process beyond merely the underpayment and non-payment of wages.

- One of the key examples of stolen wages practices is that Indigenous workers were largely either not paid any wages or paid substantially lower wages than other workers in comparable fields.
- Indigenous workers also often had strict employment controls placed on them by governments, government agencies and private employers.
- Indigenous peoples were generally prevented by commonwealth legislation from receiving a broad range of social security benefits that were paid to other Australians, such as invalid pensions, old age pensions, maternity allowances, and child endowments; these practices occurred from the foundation of Australia in 1901 right up to the 1960s in some cases.
- When Indigenous peoples did occasionally receive wages or benefits, governments and their agencies largely compulsorily acquired these moneys and placed them into trust accounts.

These government-controlled accounts were often mismanaged through neglect, incompetence and fraud.

- Indigenous peoples were often unable to access these trust accounts for years, and if they were finally able to access their accounts, the accounts often either held no funds or less funds than they should have.

These stolen wages practices were able to occur through the poor governance and under-resourcing of Indigenous affairs administration by states and territories, and the poor level of financial and management accountability by state and territory governments and their agencies.

Examples of each of these practices have been documented by academics such as Ros Kidd and Cameron Raynes in relation to South Australia.

Stolen wages practices have significantly and detrimentally impacted upon generations of Indigenous peoples for over 150 years. These practices have been referred to as slavery by a number of academics, including Curthoys and Moore, Gray and Jones. In a book by Mattingley published in 1988 in Adelaide, a protector from one of the reserves in South Australia—so not just academics speaking in recent times but people back decades ago—referred to these practices as slavery as well.

The magnitude of moneys stolen from Indigenous peoples under the stolen wages practices, including wages, benefits and savings, is very significant. Ros Kidd, who has done a lot of research in Queensland, estimates that in Queensland alone over \$500 million in today's terms was stolen from Indigenous peoples. These stolen wages practices also continue to have a significant impact on contemporary Indigenous socio-economic disadvantage today, particularly in areas such as housing, health and education.

Regarding the campaigns for reparations, Indigenous peoples have protested and campaigned against these practices for many decades. In more recent years, these campaigns have been supported by other groups, particularly community reconciliation groups and trade unions. There have been several significant political campaigns conducted over the past two decades, particularly in Queensland. These campaigns are part a longstanding tradition of social movements in Australia's political and social history, particularly those relating to Indigenous affairs.

These campaigns, led by Indigenous peoples, have argued that state and territory governments should address the very poor history of stolen wages practices and provide reparations to those Indigenous peoples impacted by these policies. As I said, the campaigns are most prominent in Queensland and also New South Wales. There have been less prominent campaigns in Western Australia and Victoria and there has been more limited campaigning in other states.

Again, the histories of the campaigns have differed to some extent, but they have had a similar range of activities. They have mainly included advocating to governments to develop a reparations scheme and to help publicise those campaigns in Indigenous media and the wider community media. In recent years, the campaigns have also constructed key connections to strategically relevant people and organisations, including broader Indigenous groups, individual parliamentarians, political parties, trade unions, academics and local, state and national reconciliation organisations.

There have been a variety of responses from commonwealth, state and territory governments to both the expanding literature on the history and impact of stolen wages practices and the campaigns from Indigenous peoples and their supporters for reparations schemes. In 2006, the commonwealth Senate committee on legal and constitutional affairs conducted an inquiry into stolen wages. The committee produced a report from this inquiry entitled *Unfinished Business: Indigenous Stolen Wages*. The Senate report had a number of recommendations, including that:

- Western Australia develop a reparations scheme similar to that developed by New South Wales;
- the commonwealth, (in regard to Northern Territory and ACT), the Victorian, the South Australian and Tasmanian governments, should consult with Indigenous peoples and explore their archives to determine if they need to develop reparations schemes similar to that developed by the New South Wales government; and
- the Queensland government should revise their reparations scheme to more closely follow the New South Wales scheme.

At that stage, the only government in Australia that had developed a reparations scheme was the Queensland government. However, none of those three key recommendations were addressed by commonwealth, state or territory governments. Whilst Western Australia later did develop a reparations scheme, it was manifestly inferior to the New South Wales scheme.

Currently, just the New South Wales, Queensland and Western Australian state governments have developed reparations schemes for Indigenous peoples who were impacted by previous stolen wages policies, and I will briefly outline each of those.

In 2002, the Queensland government became the first government to develop a reparations scheme, the Indigenous Wages and Savings Reparations Scheme. The main elements of this scheme were that it provided reparations of between \$2,000 and \$4,000 to Indigenous people who were born before 1957 and were still living at 9 May 2002. It required people to prove their wages had not been paid to them and required people to agree not to pursue any other legal avenues regarding these stolen wages. In 2015, a subsequent Queensland government did increase those amounts slightly.

In 2005, the New South Wales government developed the Aboriginal Trust Fund Repayment Scheme. This was a significant improvement on the Queensland scheme. Its main elements included providing reparations for Indigenous peoples or their descendants for lost or stolen trust funds. That was a significant improvement, in that the Queensland government scheme did not pay reparations to descendants. It didn't cap the reparations, it allowed for oral evidence and it didn't force claimants to waive their legal rights. Again, this is critical because, in the Queensland scheme, many Aboriginal people couldn't prove the existence of stolen wages because government records that related to their histories had been lost by the government. So oral history was excluded in Queensland but accepted in New South Wales.

The Western Australian scheme developed in 2012 was the Stolen Wages Reparations Scheme. This was a significantly worse scheme than the New South Wales scheme. Its main elements were that it provided reparations of just up to \$2,000 to those Indigenous people born

prior to 1958 and still alive, similar to the Queensland scheme. It also required claimants to waive future legal claims and testify that they had not received any wages.

Both the Queensland and Western Australian schemes have been heavily criticised by academics and by Indigenous organisations as being manifestly inappropriate in providing genuine reparations to those Indigenous peoples affected by these schemes.

In conclusion, for much of the 19<sup>th</sup> and 20<sup>th</sup> centuries, Indigenous peoples were appallingly impacted by stolen wages practices. These practices continue to substantially impact upon Indigenous people today in terms of socio-economic disadvantage, as much of the moneys owed to Indigenous people has not been returned. The long-running campaigns by Indigenous peoples and their supporters, along with a significant amount of literature on stolen wages, have helped focus the attention of some Australian governments on stolen wages; however, the responses of Australian governments have been generally very disappointing.

Most of the Senate recommendations have not been adopted by state, territory or commonwealth governments. At this stage, only three state governments have developed reparations schemes, and two of these have not genuinely addressed the legacies of stolen wages. This failure by Australian governments to implement effective reparations schemes has resulted in Indigenous peoples impacted by past stolen wages practices not being able to obtain reparative justice.

I would like to finish with this quote from Yarra Yarra Elder, Aunty Dot Peters. . In a forward to a book that I co-authored with Sadie Heckenberg on stolen wages, Aunty Dot states:

My mother was brought up on Coranderrk Station near the town we now call Healesville, and my father grew up in the Cummeragunja Reserve in New South Wales before moving to Coranderrk. My mother worked in the manager's house as a maid. Many times I recall her saying, 'It was a large two-storey house and, if the manager's wife found dust anywhere, she would make us clean the whole house again.' She did not get paid.

My father and others worked at Cummeragunja but, whatever work they did there, they did not get paid for it. My father was also a soldier and fought in the Middle East in World War II. He died a Japanese prisoner of war in Burma. He, like many others, served this nation and fought to ensure the future, the future we all know and enjoy today.

I remember getting postcards from my father, albeit sanctioned by the Japanese Imperial forces. In these postcards, my father would describe his health, whether he was working and how much he was being paid. Through his limited correspondence, my father also suggested that our family should be receiving sixpence per week but, to my knowledge, I do not believe that my mother ever saw that money.

When soldiers returned home, the land that was Coranderrk was sold. We were led to believe that families of servicemen who had died would receive some of the proceeds but, unfortunately, due to the discrimination back then, Aboriginal soldiers did not receive anything.

It is of utmost importance that my family's story and that of so many other families is not forgotten or washed away in the river of time. The research project on stolen wages in Victoria tells the stories of our shared history and our brothers and sisters in Lake Tyers, Warrnambool and Healesville.

These stories detail the essence of our survival and that of our communities. Now these stories will not be hidden or forever lost.

Governments of all persuasions cannot deny the facts of history.

Thank you. I am very happy to take some questions.

2 The PRESIDING MEMBER: Thank you, professor. Firstly, I think you referred to 1957 in Queensland and 1958 in Western Australia. Did I miss the year for New South Wales, or didn't that come into the equation?

Prof. GUNSTONE: There was no similar year. The New South Wales scheme was much more flexible, in that it allowed descendants to apply, and oral history to be considered. The restrictions on the New South Wales scheme were much less than the Queensland or Western Australian ones.

Restrictions have also occurred in Victoria. While they have not developed a scheme they did conduct limited archival research in 2009. Again, they put restrictions on the types of history they would look at. For example, they didn't look at anything prior to 1918. The reason for that was

that obviously anyone prior to that would not have been still alive, so they were putting restrictions on what they would look at as well.

The New South Wales scheme was a manifestly better scheme, and allowed for oral evidence and a whole range of other types of stolen wages practices to be engaged with, such as the maternity allowances and child endowments that were not paid.

3 The PRESIDING MEMBER: What was the reasoning behind the 1957 and 1958 years?

Prof. GUNSTONE: Again, primarily because they were looking at the types of work that were being done at the time, and where Aboriginal people were living, and also whether they were still alive. In Queensland, the \$2,000 and \$4,000 amounts depended on the year people were born. If a worker was born prior to 1952 they might be eligible to \$4,000, if a worker was born between 1952 and 1956, they might be eligible to \$2,000. The government argued these different amounts reflected the impact of different legislative regimes. There wasn't a lot of logic behind why that year was decided and why one person would get \$4,000 and another would get \$2,000. There was a bit of an arbitrary judgment on that.

These schemes were very arbitrary. The father of one of my colleagues was paid because the government had managed to find records of him, but my colleague's uncle, who worked alongside his brother for 30 years, did not get paid because the government had not kept his records. The Queensland and Western Australian schemes were quite arbitrarily developed.

4 The PRESIDING MEMBER: In regard to the distribution of moneys to people, I think you quite effectively indicated that you think the New South Wales scheme is the best. Is that better at making sure that the people get the money, rather than the other two?

Prof. GUNSTONE: The New South Wales scheme was also developed with a lot of consultation. It engaged with former senator Aden Ridgeway and many other Aboriginal people. Going through consultation processes beforehand and seeing the problems with the Queensland government scheme gave the New South Wales scheme a way to look at developing those processes.

In terms of how they constructed it, a lot of that would have been done through the consultation with Aboriginal people as well, whereas the Queensland and Western Australian government schemes were not developed in genuine consultation with Aboriginal people.

I have done some research in Victoria. Obviously, as academics, we don't have the resources of a state government to go and do a whole range of consultations. I certainly found, in my experience, that in consulting with communities, as well as being a real privilege to sit down with the communities and talk to them, the richness of the stories and the oral histories is far richer than what you can see in the archives.

There has been a whole lot of research about this. Aboriginal voices are rarely heard in the archives; the archives are often focussing on the policies and processes; really from the managers (the reserve superintendents) talking about what the policies have been. The impact of those policies is often missed in the archives. I think consultation is really important because you really find the history, the cultural richness of what has happened, and the impact of those policies on people's lives.

5 The Hon. K.J. MAHER: Thank you for that, professor. Are you aware, is there any figure available for the cost of the scheme in New South Wales, and the amount paid per successful claimant?

Prof. GUNSTONE: I don't know exactly what that cost is for New South Wales. With the Queensland government, the original scheme in 2002 was for \$55.4 million, which is approximately just over 10 per cent of what Ros Kidd, who is a prominent academic in this area in Queensland, estimated it to be.

That \$55.4 million, because of the really tight restrictions, principally, that claimants can only receive money if the state government had kept records, the age requirements and that people still had to be alive and also had to sign a waiver, restricted that scheme to only paying out

about \$20 million, so they had another \$35 odd million left. Several years later, some of that money was redistributed back to claimants, so that's where that top-up money came from in 2015.

The Queensland scheme also used some of the unspent funds on allocating scholarships for Indigenous students. While scholarships are important, they should not have come from this fund as it was not about the education of current generations, it was about repairing history and so there was some concern about that as well. I haven't seen any figures for the New South Wales scheme but certainly the one that has had the most information is the Queensland one and that was \$50 million.

6 Mr DULUK: Thank you, professor. On Kyam's point, is there any indicative figure of what a South Australian liability would be?

Prof. GUNSTONE: I don't know and I don't think the research would have been done for South Australia. I know that Cameron Raynes from the University of South Australia did some research in this area several years ago, but my recommendation is for the state to conduct archival research and community consultations and see what's there. I know the Victorian government did that and that gives you a little bit of a baseline figure of what is going to be there.

Comprehensive research was conducted in Queensland because researchers were able to get access to significant archives. So, while Ros Kidd has made that estimate of \$500 million, it is unclear for the other states. I doubt it would be a similar amount in Victoria but we really don't know because we have not had the same access to the archives.

I have tried to do estimates like this in Victoria and, again, I apologise that I don't have the knowledge of South Australia but I am sure it would be quite similar. It is also hard to estimate given the complexity of the trust systems. In Victoria, a lot of the wages that weren't paid were diverted to a trust fund but that trust fund changed names several times over the next 100 years. Monies came out, monies went in and then, it got transferred to the Commonwealth Treasury in the mid seventies following the 1967 referendum when the Commonwealth took control of Indigenous affairs.

At that point, those trust funds ceased to exist because it all got absorbed into the Commonwealth accounts. So we have had difficulty trying to find all those funds and, of course, that is just one component—that is just the trust funds. You then need to go and look at the lost Commonwealth social security benefits and that is something obviously for the Commonwealth government to look at. Then the other issues are, of course, the underpayments and nonpayments.

When I was at the University of South Australia, I started a research project with an economics professor, Professor Martin Shanahan. My interest and expertise is in history, and his is in economic history. I left the university shortly afterwards to work at Swinburne, so I didn't continue with this project. Our original idea was to identify the occupations Aboriginal people were working in and compare the wages they received to wages being paid to non-Aboriginal people in similar occupations, and then do an economic analysis of that.

Some of the preliminary data that he has indicates that there was a significant gap and that is another way to then work out underpayments. So, it is pretty forensically difficult, but that is another way to work out what the cost is in terms of underpayments to Aboriginal people.

7 Mr ELLIS: You mentioned that claimants in the three jurisdictions with these reparation schemes have to waive future legal claims that they may have. Has anyone rejected that and tested it out legally?

Prof. GUNSTONE: That is the case for the Western Australia and Queensland schemes. Ros Kidd is doing some work with a Queensland law firm in trying to test some of these details. This legal approach is an important avenue, just like with native title—native title was recognised in Australia through the Mabo and Wik cases through the law. It hasn't, as far as I am aware, actually proceeded to court yet, but I think that could be a way to see. That is a broader issue not just about testing the restrictions on people making claims but also a way to find out if there is a way to get access to the costs of what it can be for stolen wages.

8 Mr HUGHES: Is the \$500 million in Queensland purely a state liability, as in the state government liability? Is there some breakdown on that? I gather that doesn't cover the commonwealth liability.



Prof. GUNSTONE: Exactly. As far as I am aware that does not include the commonwealth social security benefit, so that's purely wages, underpayments, non-payments, trust funds. One of the things I didn't talk about today in this brief presentation is the issue of apprentices and children. All the states had legislation to control the lives of Aboriginal children. In all states the chief protector was the legal guardian of all Aboriginal children in the state, so they had enormous power to control the lives of Aboriginal children.

There has also been some research conducted on seeing how many Aboriginal children ended up working and not getting paid as well. When they later tried to access their trust fund accounts, there was often no monies in those accounts.

There have been queries raised about the trust funds for decades. In the 1930s in Queensland they were talking about where these trust funds were going. Some funds were used by governments to fund particular projects. The irony, of course, is that the trust funds were set up in the first place because of the racist and prejudiced belief that Aboriginal people couldn't control money but in fact the money wasn't controlled by the agencies.

9 The PRESIDING MEMBER: You have given us a broad range of examples within Australia. Are there any similar cases outside of this country in other parts of the world?

Prof. GUNSTONE: That's an excellent question. In fact, President Barack Obama settled with Native Americans—I think it was about \$500 million—several years ago. That's an incredible amount of money to rectify issues that happened there in terms of their trust accounts. I will track down that exact information for you.

10 The PRESIDING MEMBER: If you could furnish that to us, that would be useful.

Prof. GUNSTONE: There have also been some other examples of academics, not in exactly a similar situation but doing broadly similar work, trying to understand economic loss through slavery. People work in analysing the impact on Jewish people during World War II in terms of the history with the Nazis engaging with economic slavery, so there has been some similar work.

My strong recommendation would be that all state governments look at their records and conduct consultations with communities because obviously it's getting a long time since the stolen wages policies were abolished but there are still certainly people with important knowledge of what happened.

I spoke to an Elder at Lake Tyers, which as I was saying was the one staffed reserve in Victoria after the 1920s, and she remembered that as a girl of 14 she left home and went to work in a factory in Melbourne. As a 14-year-old Aboriginal girl working in a factory in the 1950s, she received very little money, yet she earned three to five times more money than her father did as an adult in Lake Tyers. That always impacted on her.

It's these sorts of examples—as well as helping narrow down in the archives where to go to find out more detailed data—which give us very rich knowledge to find out more about the stolen wages practices.

11 The PRESIDING MEMBER: Thank you very much for evidence to the committee today. The committee will send you a copy of the transcript of your evidence. Please review it to ensure it is an accurate record of your appearance. Once again, thank you for taking the time to visit the committee to give us that presentation. We value that very much.

Prof. GUNSTONE: Thank you very much for that, Chair.

THE WITNESS WITHDREW

