

The Canberra Times

Unaccounted past: Aborigines still fighting for unpaid wages

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Canberra Times
3 December 2016

Economic racism against Indigenous Australians hasn't been consigned to history.

In 1964, Hans Pearson - an Aboriginal man with a wife, Anna, and eight children - was granted an exemption from the legislative scheme under which wages earned by Indigenous people (mainly stockmen) in Queensland were paid into a state-run fund.

So he went to the Innisfail police station, where a sergeant was also protector of Aborigines, to seek repayment of the wages he had earned over the past nine years at various cattle stations in Queensland. The Innisfail sergeant wrote to the Department of Native Affairs in Brisbane, which authorised the Palm Island protector of Aborigines to send Pearson's money to Innisfail, which he did.

Anna Pearson calculated they would get more than £2000 (\$4000), enough then to buy a house and car and to set the family up.

But when the Pearsons arrived at the Innisfail police station for payment, they were given just £26, 15 shillings and 2 pence. They were devastated and condemned to a life of penury, a life on the edge. Essentially, he had worked nine years for next to nothing.

Pearson is one of thousands. Money that he had earned and thought had been held in trust for him and earning interest was not accounted for.

Fifty-two years later, he is seeking an account.

Later this month, the Federal Court will adjudicate on allegations of perhaps the most egregious case of economic racism in Australia's history. It was the wholesale expropriation of the wages earned by Indigenous workers over several decades by the Queensland government, followed by years of underhand conduct to cash out on the cheap any claims for reparations.

It isn't widely known that, until the 1960s, it was against the law for an employer to pay an Indigenous worker directly. Instead wages had to be paid to the "protector of Aborigines". The pastoralist could hand out only trivial amounts of pocket money.

It was possible, but uncommon, for some Indigenous workers to get exemptions from the scheme.

As it happens, governments engaging in nasty regimes like this have a habit of meticulous documentation. The details of the extent and nature of the expropriation are in the Queensland government's archives.

Pearson says he had in fact earned \$5013.65 (one pound equals \$2) at various stations throughout north Queensland over nine years. Less pocket money, it left \$4902 owing. In today's dollars with interest, that would come to \$171,000.

The case, alleging breach of trust and fiduciary duty, is being heard in the Federal Court. It also alleges a breach of the Racial Discrimination Act. Mediation and

conciliation in the Human Rights Commission failed. It's a class action and as many as several thousand could join it. It's going to run to hundreds of millions of dollars.

The statement of claim argues that the unlawful racial discrimination occurred with the fobbing-off and underhand treatment when the claimants started to protest more loudly in the 1990s and into this century.

That can't be met with an argument along the lines: "We are very sorry but that sort of thing happened in the 1950s and 1960s, so it's too bad."

As is so often the case, the later history (the cover-up) is perhaps worse than the original expropriation because, by then, they should have known better.

After a groundswell of protest in the 1990s, then Queensland premier Peter Beattie announced in 2002 a scheme to pay compensation for the controls exercised by earlier Queensland governments over the wages and savings of Aboriginal and Torres Strait Islander people.

However, there were three big "buts".

Payments were limited to a maximum of \$4000 a person. There was to be no admission of legal liability. And people taking the money had to sign an agreement indemnifying the Queensland government against legal action.

It gets worse: claimants had to acknowledge that they had received independent legal advice. In fact, the statement of claim alleges, there was no proper independent legal advice. Claimants were treated in groups and basically told that, if they didn't accept the \$4000 waved in front of them, they would get nothing, and that to take the government to court could result in costs orders against them and that any case would go on for years.

The pro-forma written advice given to claimants was prepared by government lawyers. No individual was told how much money in wages earned by them had been paid to the protector of Aborigines or how much that might be worth at the time.

About \$19 million had been paid out when the scheme closed in 2006. It was reopened in 2008 with a top-up of up to \$3000, and again in 2015 with a top-up of up to \$2200. This was all described as being in "the spirit of reconciliation".

In total, the Queensland government hoped to fob off the people whose wages it took with a total payout of about \$40 million, whereas Beattie acknowledged in Parliament that historians had put the amount owing in 2002 at \$500 million.

Pearson's solicitors, Bottoms English, of Cairns, began the class action. They quite reasonably argue that the best way to find out who might have a legitimate claim and join the class action would be for the Queensland government to provide it with the names and addresses of people who made claims under the statutory scheme. It would reduce costs and delay.

The government has refused. That will be the first point to argue.

About 9000 people accepted statutory claims. Some are dead, but their estates and relatives might want to claim.

The statement of claim says the so-called indemnities are unconscionable breaches of trust and unenforceable. The case is not just going to go away, as presumably the Queensland government would like.

The statement of claim basically asserts that the whole sorry episode of what amounts to indentured labour and the refusal to account for money held in trust is racially discriminatory because no white people were ever treated like this.

And by the way, most other Australian jurisdictions had a similar regime.