The Stolen Generations, the historian and the court room

Peter Read

In the last two decades I have been asked on half a dozen occasions to present a written submission, and usually also to present myself in person, to give evidence in legal hearings concerned with separated Aboriginal children. The written report is known as an 'expert report'. Some of these hearings concerned disputed custody, others were attempts by individuals to sue governments for wrongful removal and/or subsequent ill-treatment.

In a 1993 hearing, the Aboriginal parents of a man in jail were challenging a Department of Community Services decision to place his child with its white mother. I was called by the grandparents as an expert witness. I stated that I would not recommend, under normal circumstances, that any young child be raised solely by one parent or the other. In any case, it was quite common for Aboriginal grandparents to raise young children, including great nieces and nephews. The deprivation of the opportunity to identify as Aboriginal – which would probably follow a sole placement with a non-Indigenous parent – would not only be contrary to the spirit of the 1987 NSW Child Welfare Act, but also would have the same effect as if the child had been forcibly adopted out to a white family in the 1950s, or forcibly institutionalised in the 1920s. My testimony went unchallenged in the hearing and I was not cross-examined. In his decision for shared custody the judge acknowledged the usefulness of both my written submission and my court appearance.[1] This hearing, ten years ago, was one of the few occasions in which my knowledge of the history of separated children was taken seriously, and proved useful to the court.

---

1. 'Children of Aboriginal/Non-Aboriginal Parentage', in the matter of Trindall v. Anderson at the Family Court, Parramatta, before Mr Justice Coleman, 4–5 May 1993; other appearances by the author as expert witness in related matters include Oral Submission, 'Aborigines and Aborigine History' in the matter of Russell Moore v. State of Florida, Brevard County Court, Florida, USA, before his Honor Judge Johnson, December 1989; Dept. of Community Services v. Shona Johnson and Andrea Yates-Bourke etc, (Not published, Closed Court), file Nos 7, 8, 10, 11 of 1992 at the District Court, Wentworth NSW, before Mr Justice Graham, 28 October 1992; Dept of Community Services ats. Alderton, Orange District Court No. 14 of 1993, 27–30 July 1993; Williams v Minister, Aboriginal Land Rights Act 1983, (1994) 35 NSWLR 497, NSW Court of Appeal Kirby P, Priestly JA, Powell JA.

Much more testing was an appearance before a Court in Melbourne, Florida, on behalf of Russell Moore in 1989.[2] Two weeks after his birth, in 1963, Russell Moore was adopted by a white family under the name James Savage. In 1968 his adopting parents took him to California. When he was about twelve years old, and deeply unhappy, Russell ran away from the family. His whereabouts remained unknown until, at the age of 24, he was arrested in Melbourne, Florida, for sexual assault and murder. At this point he was re-discovered, by his American lawyers, to be a Victorian Koori. The Victorian Aboriginal Legal Service contacted his mother, Beverly Whyman, who travelled to Florida for the trial.

Moore pleaded guilty. For the penalty phase a month later (in which the same jury hears evidence and recommends a punishment to the judge) a party of Australians was summoned to Florida to present evidence on Moore's behalf. The party included Justice Hal Wootten QC (one of the NSW Royal Commissioners into Aboriginal Deaths in Custody), Bob Randall, Molly Dyer, Alec Jackomos and myself.

A principal problem for all of the Australian expert witnesses was that Florida law only allowed evidence directly concerning the prisoner or his past life to be heard by the jury during the penalty phase. The prosecution objected to any Australian historical testimony being given by any of us. Wootten, pre-eminent jurist though he is, was denied permission to appear by the trial Judge on the grounds that he did not know the prisoner personally. I was first examined by the opposing counsel, on the understanding that I should meet Moore before my appearance in court. Later that day, before the Judge but without the jury, I gave evidence on the Victorian Protection of Aborigines Act, the purpose, history and mechanics of the assimilation policy as it had affected Moore's separation, an analysis of government policy towards Aboriginal people generally, and the likely outcomes to Aboriginal people separated at a young age and raised either in institutions or in family care. The judge ruled that I could give evidence the next day to the jury on what he called 'Aboriginal history and Aborigine culture'. I was warned specifically not to mention my estimate of some 15000 Aboriginal children removed in Victoria and New South Wales.

In the end I did not give evidence before the jury at all because the defence team learned of a legal tactic analogous to that which I myself had been warned against. During my appearance I was to be asked by the prosecution counsel if I was aware that Moore had physically attacked the Brevard County jail guards a number of times, and been tried and convicted of these attacks. The defence team would instantly object that this was an improper question and the judge would probably rule it out of order; but – so ran the thinking – the jury, having heard these damaging facts, would be unable to put them out of their minds. None of the Australians gave any further evidence. The jury ruled 10:2 in favour of a life sentence; some weeks later the judge overruled the jury, and some months later the Florida Supreme Court overruled the judge.[3] I did not

2. Oral Submission, 'Aborigines and Aborigine History' in the matter of Russell Moore (James Savage) v. State of Florida, Brevard County Court, Florida, USA, before his Honour Judge Johnson, December 1989. See also my 'In the middle of the ocean, drowning', in Read 1999a; Archie Roach's song 'Munjana', and the Titus Film production *Savage Indictment*.

3. Moore has served about half his sentence. Successive Australian governments have shown little interest in having him return to Australia to serve his sentence here.

at all enjoy these grisly proceedings, but the episode wakened me, even though American legal rules are different to our own, to the tactical warfare which is such a feature of the trial process in both countries. I had naively assumed that the discovery of historical truth was the aim of both sides.

A different issue arose when I was asked to provide historical context to the NSW Court of Appeal in the matter of Williams v Aborigines Welfare Board. In 1992 Joy Williams began proceedings against the Minister responsible for the Aboriginal Land Rights Act, 1983 (the inheritor of administrative responsibility for the NSW Aborigines Protection and Welfare Boards), for wrongful removal and for causing physical and mental illness subsequent to her removal. At the initial hearing the judge ruled that the Statute of Limitations should apply and that the case should proceed no further. The appeal against this judgement was heard by the NSW Court of Appeal, a procedure by which three judges without jury ordinarily rule on the matters of law rather than fact that are brought before it. During the public hearings the judges take a much more active part than in lower courts.[4]

To prepare for the appeal against the Limitation Act 1969, the Kingsford Legal Service, acting for Joy Williams, asked me to prepare an affidavit setting out the general historical circumstances, so as to provide a context in which Joy's removal from her mother could be explained. I drew on my previous submissions in custody cases, and my personal knowledge of dozens of people I had worked with while an employee of Link-Up. One historical quotation, I thought, was critical: a statement made by Robert Donaldson in 1909. At the time Donaldson was a member of the NSW Legislative Assembly, but in 1915 he became the Aborigines Protection Board's first Inspector of Aborigines, and was therefore able to put into effect the policy of forced separation of children which he had advocated for so long. He told the Australasian Catholic Congress in 1909:

> There is no difference of opinion as to the solution of this great problem, the removal of the children and their complete isolation from the influence of the camps. Under no circumstances whatever should the boys and the girls be allowed to return to the camps. In the course of the next few years there will be no need for the camps and stations; the old people will have passed away and their progeny will be absorbed by the industrial classes of the colony.[5]

I hope my evidence helped the Appeal Court to allow Williams' claim, by a 2:1 majority, to proceed to be heard by a judge sitting alone. Joy Williams, they ruled, was entitled to her day in court. Historical context helped to win the day. The hearing was set for April 1999.

Meanwhile the best known of all the stolen generations hearings, *Cubillo and Gunner v Commonwealth of Australia*, was in preparation. Peter Gunner and Lorna Cubillo sued the Commonwealth for wrongful removal and for subsequent maltreatment and abuse by missionaries acting on behalf of the Commonwealth. Peter Gunner was removed from Utopia Station in 1956 and raised in the St Phillips Anglican institution in Alice Springs. The primary evidence for the Commonwealth and against Gunner

4. Williams v Minister 1994.
5. Edwards and Read (eds) 1989: xiii–xiv.

was his mother's thumbprint on the removal certificate, apparently signifying assent to the removal. In the absence of evidence that her assent was coerced, the mother's thumbprint was admitted as evidence that she had indeed given her consent, as seemed to be required by the rather obscure legislation. Lorna Cubillo was removed in 1942 from an officially-recognised 'native camp' near Tennant Creek and taken to the Baptist-sponsored United Aborigines Mission Home in Darwin.[6] There was no evidence to suggest whether or not anyone in Lorna Cubillo's family gave consent to her removal. More than fifteen months of intense public interest – and some eleven million dollars – later, the joint test case against the Commonwealth Government was dismissed.

Before the hearing I was asked by the Northern Territory Aboriginal Legal Service to provide an affidavit setting the historical context both of separation of Aboriginal children and of the Northern Territory generally. The lawyers provided me with some 3000 documents, mostly drawn from Commonwealth (Northern Territory) Archives, bound in 28 volumes. I wrote fifty pages of analytical description drawn from all areas of Australia, using some of the Williams material, but seeking also to demonstrate in what ways the Northern Territory, under Commonwealth control, was different from the states. The lawyers responded that they wanted something more specific about the Northern Territory, and more specific to the issue of removed children, rather than, say, the conditions generally prevailing on pastoral stations. They wanted much more relating to the actual legislation, with 'hundreds and hundreds of footnotes'. I rewrote the document completely, this time in 90 pages, including a chronology of developments in the legislation and regulations illustrated by instances drawn from the archival records, with an appendix listing several international criticisms of the Commonwealth's separation policy. Drawing on the archival records, I collated some thirty justifications for separating part-Aboriginal children in addition from the need to 'save' and educate them.[7] These included the stated need for domestic labour, to 'breed out the colour', to avoid 'half caste' boys menacing society and the girls from becoming prostitutes, to fit them for absorption, and to fulfil their national destiny of institutionalisation and absorption. In 1951 the Administrator, following adverse criticism of the removal policy by one of the Department's own patrol officers, confessed to the Secretary of the Department of Interior that he could not find any actual ministerial approval of the removal policy. I was able to find eight instances from the documents of specific ministerial approval or endorsement in the previous thirty years and many other references to such approval in the annual reports.[8] My affidavit seemed to me to provide very strong evidence that there was a policy of removal of as many part-Aboriginal children as possible from their communities, and for many other motivations beside the perceived good of the child. The lawyers were uneasy at my use of the word 'Argument' at the beginning of each section. They did not seem to understand the long and difficult processes by which historians arrive at historical judgements. 'It is for us to argue', I was told, 'and for you to provide the historical facts'.

6. Cubillo v The Commonwealth of Australia 1999.
7. Read 1999b, Part Four: Analysis of policy and practice in the removal of half-caste children in the Northern Territory, Sections 1 and 2.
8. Administrator Wise, Policy Submission, 28 February 1952, National Archives of Australia, quoted in Read 1999b Part 4.ii.18.

My historical evidence, as it happened, was not even presented to the court, while another historian who presented an affidavit relating to racial purity policies in the 1930s and 40s was subjected to an extremely unpleasant five days in the witness box, at the end of which her affidavit was not accepted by the Court either, only her oral testimony. I received no credible explanation to my queries about why my affidavit had not been presented and why I had not been called. Some weeks later, after persistent enquiries, I learned that the affidavit was 'not considered good enough.' I strongly resented this explanation, but many phone calls and several letters to the principal of the firm evinced no further response.

On reflection, I suppose my position was not dissimilar to that in Florida. I knew no more of the individual cases than what was contained in the plaintiffs' depositions, but I knew a lot about the general context of 20th century Aboriginal history of the Northern Territory. I had spent 1976-7 recording Aboriginal accounts of massacres, of coming in to pastoral stations, moving out, labour conditions, living in institutions, World War II experiences, equal pay and education, and, not least, two accounts of separation and removal to church institutions. While working for Link-Up in NSW, I had been involved in several more cases concerned with the removal of Northern Territory children to southern States.

I have to presume that the lawyers decided to fight the case on personal rather than general historical grounds, but also suspect that in commissioning my report they had had no idea what to expect, and certainly did not see the relevance of most of the material I brought together. Yet as a historian I know that the general *context* of Northern Territory history in the first half of the 20th century is – or should be – highly relevant to individual cases.

Consider, for example, the journey of Lorna Cubillo from Tennant Creek to the Retta Dixon Home. No evidence could be provided that Lorna's elders had *not* agreed to her removal. It is my belief that consideration of the historical context could provide evidence useful to the courts assessing situations where written evidence no longer exists, or may never have existed.

The context is that of the Coniston massacre of 1928. Following the death of a white man and an attack upon another at Coniston Station north-west of Alice Springs, perhaps 150 Warlpiri and Anmatyerre Aboriginals were killed by punitive parties made up of at least one policeman, black trackers and several pastoralists.[9] In the mid-1970s, fifty years later, I travelled to many of the sites, sometimes with eye witnesses, collecting oral accounts of these killings which were, naturally, still told with passion, outrage and fear. I learned that hundreds of Aboriginal people, some of whom were in fact regular station workers, fled for their lives before this apparently unpremeditated and irrational attack, to pastoral stations known or hoped to be friendly, to seek refuge. These included the Overland Telegraph Stations of Barrow Creek and Tennant Creek – from where, fourteen years later, Lorna Cubillo was taken. I recorded this conversation with Charlie Jakamarra, a Warlpiri man. His account of the Coniston events included the story of a man who had escaped from the Hanson Creek killing sites to Tennant Creek, who returned to discover the bodies of his murdered countrymen and women:

9. Read & Read 1991, see chapter 'A homeland deserted'.

> You got another old feller, was run away from, farther out from Hanson Creek, straight to Tennant Creek.
>
> [This] One bloke come back, trying to come up and see the people.
>
> Well he run into ... people.
>
> Like, him bin shootem round there. Make big fire, and bin come along, and see-em dead bodies now.
>
> Just turn back, straight back.[10]

Lorna Cubillo was removed in 1942, not fifty years after these events took place, only fourteen. Some of the killings and pursuits occurred less than 150 kilometres from where she was put on an army truck bound for the Retta Dixon Home in Darwin. It is inconceivable that any Aboriginal person living in the Tennant Creek region was unaware of the killings in 1928, and most improbable that the subject was still not constantly talked about, or thought about, in 1942. Probably, in fact, almost everyone in the native camp born in the region had a relative who had actually been killed. We may ask now, given this context: was it likely that anyone who had lived with these experiences would have defied a uniformed white man – big boots, big hat, big bunch of keys – who told her to put that little girl on the truck? No, it is not likely. Everyone in the Tennant Creek native camp would have known about these terrible events and drawn their own conclusions as to the propensity of the white men to suddenly and inexplicably lose all self-control and begin killing them. In the absence of any direct evidence at all, the Court was asked to consider whether Lorna's mother, living in what historians know to have been a run-down, malnourished native camp of deep and terrible historical memory, made a free choice to allow a child to go to an institution. In court the story could have been held to be an emotional or rhetorical irrelevance. The defence might have demanded: 'Can you be certain that Lorna Cubillo's elders were affected in the way you describe?' Since I never knew her, I would have had to answer: 'No, I cannot be certain'. What to me is an essential and incontrovertible historical contextual explanation might be legally inadmissable. Yet *not* to acknowledge these wider events as central to understanding the historical context, and therefore to establishing the probability of assent to removal, seems clearly wrongheaded.

Justice O'Loughlin found that Cubillo had indeed been subsequently abused by missionaries, but in the primary matter of her removal, in which the onus lay on her to prove that she had been removed against her mother's will, he found no evidence that she had been illegally separated. In the absence of any evidence regarding the particular matter, the Commonwealth could not be found to have removed her against her family's wishes.

Let's return to Joy Williams, granted permission by the NSW Court of Appeal to proceed against the state of New South Wales, removed from her mother's care in the same year that Lorna Cubillo was taken to the Retta Dixon Home. Lorna Cubillo's and Joy Williams's legal positions seem essentially the same. In the absence of evidence O'Loughlin J found that the Commonwealth authorities had not forced Lorna Cubillo's removal from Tennant Creek. Now Mr Justice Abadee, also in the absence of documentary evidence, was asked to rule on whether Joy had been forcibly removed or not.

---

10. Read & Read 1991: 52.

In this hearing Williams claimed, among other things, that she had suffered harm as a result of her childhood experiences, that the Aborigines Welfare Board had committed trespass in taking her from her mother, and that it failed to arrange medical treatment for her which would have avoided the development of Borderline Personality Disorder in later life. No warrant could be found forcing her separation at birth under s.13 of the Aborigines Protection Act; moreover, Doretta had signed an assent form allowing Joy's transfer, at the age of five years, from Bomaderry Children's Home to Lutanda.[11] Faced with this apparently damaging evidence, her lawyers no longer tried to argue that she had been 'stolen' but that the NSW Aborigines Welfare Board had 'failed to take adequate steps to permit the plaintiff to remain with her mother'. The implications of the fundamental fact that Joy was the separated Aboriginal child of a separated Aboriginal mother, the product of legislation specifically intended (in Donaldson's words) to produce such results, were not brought to the Court's attention. Instead, Williams' lawyers now argued the much weaker position that the Welfare Board should have known that, in care, she would have had no opportunity, or only an inadequate one, to form the attachment with a caring adult which was necessary for her psychological well-being.

The case failed comprehensively. The Judge found that the plaintiff's mother Doretta Williams,

> for reasons no doubt valid to herself, applied to the Board to take control of her child. … My finding is that the AWB considered the mother's application to give up control of the plaintiff, and having done so, admitted the child to its control. I find that there was not any removal by the Board to the plaintiff, in the sense of taking the child against the will of the mother.[12]

The NSW Court of Appeal rejected an appeal and sharply warned of the dangers of expanding the legal liability of those responsible for the protection of Aboriginal children. 'The present age has a hearty appetite for litigation. Some think this reflects an increasing trend to avoid responsibility for one's predicament by blaming, and suing, others.'[13]

Consider this alternative scenario:

April 1942. Irene English, the Board's senior child welfare officer, and responsible for the placements of the girls after they leave foster or institutional care, is telephoned at her Sydney office by the lady of the North Sydney home where Doretta Williams lives and works. She tells English that she had wondered about Doretta's absence for most of New Years Eve and had been keeping an eye on her. In the last four weeks Doretta had been tired and withdrawn. Yes, she was almost certain: Doretta was beginning to show. So she had sat her down and demanded to know whether or not she was pregnant. At first Doretta had said no, then she said that she didn't know, then she began to cry; then she admitted that she had been with a soldier whose name she did not know, and that yes, she was pregnant.

---

11. This document is reproduced in Read 1999a: picture 5.
12. *Joy Williams v The Minister*, & Anor: 10
13. NSW Court of Appeal, NSWCA 255 [2000]: 93

Several days later Irene English takes the 25 minute journey by train and foot to North Sydney. Doretta is called. Two cane chairs face each other on the verandah looking down towards the harbour. Doretta is allowed – for Mrs English is a kindly woman – to sit down. English begins:

> Well Doretta, this is terrible day for both of us. I can't imagine how it happened, when I consider all the advantages that have been put your way. You were taken away from your people at Cowra, we looked after you at Cootamundra, we gave you a good education, we gave you a fine job in the city. How you've let us down. How you've let down Mr Pettitt, I can't think what he will say. What will Matron think of you now? And your friends. And most of all you've let yourself down in a moment of weakness. I hope you are as ashamed of yourself as I am of you.

Mrs English notices that Doretta, head bowed, is sobbing. She turns to stare at the aching blue of the harbour and returns her gaze to the weeping child.

> You know that you won't be able to keep your baby, don't you? Mr Pettitt wouldn't think of it. You wouldn't be able to keep on working, and you would not be able to look after it. I think the best thing if for me to contact the Matron of Crown Street, arrange for you to go in there when it's time, and have your baby cared for. I'll make sure that it goes to a good home. That's the best I can do for you, and really it's for the best. And we'll find you a new job straight away. You'll be leaving here tomorrow.

I cannot say, of course, that the separation of Joy Williams from her mother was arranged like this, but my knowledge of Aboriginal history, based on conducting hundred of interviews and reading hundreds of files, suggests that it is probable. Yet the legal system, unless special circumstances apply, considers such historical contextual information to be irrelevant and unwanted.

There are three sets of issues to be drawn from this discussion: the role of the expert witness, the usefulness of historical contextual argument, and the nature of oral evidence.

Experts have been accepted in English law for many centuries, though not without misgivings. *Cross on Evidence* 1995 notes:

> Although they may be an evil, expert witnesses are necessary in a great many cases, so it is desirable to have as clear as possible an idea of their functions. These were succinctly described by Lord President Cooper in *Davie v Edinburgh Magistrates* when he said: 'Their duty is to furnish the judge or jury with the necessary *scientific* criteria for testing the accuracy of their conclusions, so as to enable the judge or jury to form their own independent judgment by the application of those criteria to the facts proved in evidence.'[14] [my emphasis]

General expertise will not necessarily weigh in specific cases, nor, rightly, are judges or juries required to accept what experts say. A police officer's experience in investigating traffic accidents does not necessarily make him an expert in reconstructing a *particular* motor accident.

More widely, the propensity of expert witnesses to espouse the cause of the party by whom they are called, and paid, has caused their value to be questioned. I was told

14. For discussion, see Heydon 1996. The status of the expert witness in NSW is set in s 76 and s 79 of the Evidence Act of that state.

firmly by one of Cubillo's lawyers, 'No, you are our witness, there's no doubt about it.' But there is doubt. Abadee J pointed out in his judgement, 'The expert's paramount duty is to assist the Court impartially.'[15] In reality, expert witnesses support one side or the other and are expected to. This large issue in the context of the administration of justice in an adversarial system awaits clear resolution. In the meantime, rather than in practice representing one side or the other, I would much rather be a true friend of the court, answerable to the judge. This would mean that the funding of witnesses would have to come from the court itself. I would be prepared to be examined, if necessary, by two hostile opposing lawyers, unusual though this would be in present Australian courts.[16]

The second question concerns the nature of evidence as it is differently conceived by the historian and by the court. In the Russell Moore case I intended to present mitigating evidence, drawn from my wider knowledge of southern Australian Aboriginal history, that the prisoner could be held to have diminished responsibility because he was a victim of laws thought to be just at the time but now recognised to have been unjust. In the suits of both Williams and Cubillo I tried to set a similar historical context, sufficient for the Court to understand how an action could occur which is otherwise contrary to human nature, that is, how a mother or carer could voluntarily allow, or request, her child to be permanently removed. I was not allowed to present such evidence to either hearing. Setting a historical context should be the one of the courtroom roles of the historian: that's what we're good at.

Does the problem lie in the way in which we form a historical opinion? A common task of the historian is to argue from a series of known and accepted individual occurrences to a probability of the occurrence of, or motivation for, another analogous event. Twelve people whom I interviewed in 1977 testified to a terrifying massacre on the Hanson and Lander Rivers which caused survivors to flee to certain places, including Tennant Creek. I can't prove, though I'm as certain as I can be, that Lorna Cubillo's relatives were traumatised and acutely aware of the Coniston massacre. If we historians are to be useful to, and respected by, courts, we must somehow convince the judges, and our own lawyers, of the value of our wider contextual appraisal. But how?

Lastly, the question of the nature of the evidence itself: not how we form an opinion but the reliability of the actual evidence on which we form that opinion. Usually, expert witnesses have no particular right to rely on hearsay evidence. Although Blackburn J in the famous Yirrkala Land Rights case of 1971 allowed an anthropologist to express an opinion based partly upon statements made by members of the tribe, normally every fact basic to the question must be proved by admissable evidence. The words of Charlie Jakamarra were, technically, hearsay, probably inadmissable in court, as are the recorded and mostly eye-witness accounts of the other 11 men whose accounts I recorded in 1977 and which formed the basis of the chapter 'A Homeland Deserted.'[17] Despite exceptions to the evidentiary rule, in normal Australian civil

15. *Williams v Ministry of Aboriginal Affairs* 2000: 191.
16. However, Deborah Rose, the ANU anthropologist, has acted analogously as Judge's Advocate in certain cases argued before the Northern Territory Land Rights Act. The Commissioner's proceedings are in many ways of course quite different to Court cases. The Federal Court has the capacity to appoint its own experts.

courts, the oral testimony which has become such a basic element of twentieth century historical writing, and upon which so much of our understanding of Aboriginal history has been built, cannot be presented. Often oral evidence is legally unusable unless the eye witnesses present their sworn testimony in Court, which they frequently cannot do. Without the oral evidence of the Coniston Massacre we would have only the faulty and dissembling 1929 report of the official investigation.[18] Despite exceptions, our Courts still remain tied to written or physical evidence, even a thumbprint.

Surely American juries should have been told that Russell Moore was not raised by white adoptive parents simply by chance. Surely it was relevant to a Court that the Commonwealth Government separated part-Aboriginal children from other motives besides humanity. Surely a judge should have been allowed to know that Doretta Williams could not have kept her child even if she had wanted to.

The rules of evidence are important, so is the integrity of the expert witness, and so is the rule-controlled impartiality of the judiciary. So crucial, too, is the revolution in the way that we historians now use oral history. So also is the contribution we historians should be able to make in helping lay people understand the historical atmosphere of a given time and place. So also crucial to ourselves as morally-motivated Australians are the ruined lives of Doretta Williams, Peter Gunner, Lorna Cubillo and Joy Williams.

References

Court documents

Court of Enquiry 'Concerning the Killing of Natives in Central Australia by Police Parties and Others', 18 January 1929.

Williams v Minister, Aboriginal Land Rights Act 1983, (1994) 35 NSWLR 497, NSW Court of Appeal Kirby P Priestly JA, Powell JA, NSWCA, 255 2000.

Russell Moore v. State of Florida, Brevard County Court, Florida, USA, before his Honor Judge Johnson, December 1989.

Dept. of Community Services v. Shona Johnson and Andrea Yates-Bourke, Oral Submission, 'Aborigines and Aborigine History', (Not published, Closed Court), file Nos 7, 8, 10, 11 of 1992 at the District Court, Wentworth NSW, before Mr Justice Graham, 28 October 1992.

Trindall v. Anderson, 'Children of Aboriginal/Non-Aboriginal Parentage', at the Family Court, Parramatta, before Mr Justice Coleman, 4–5 May 1993.

Dept of Community Services ats. Alderton, Orange District Court No. 14 of 1993, 27–30 July 1993.

Cubillo v The Commonwealth of Australia,' Lorna Cubillo and Peter Gunner v Commonwealth of Australia, Historical Report', 1999, FCA 518, 30 April 1999.

17. Read & Read 1991. 'Deserted' because in the mid 1970s that country was still largely unoccupied following the killings fifty years earlier.
18. Court of Enquiry 'Concerning the Killing of Natives in Central Australia by Police Parties and Others', 18 January 1929.

Publications

Edwards, C & P Read (eds) 1989, *The lost children: thirteen Australians taken from their Aboriginal families tell of the struggle to find their natural parents,* Doubleday, Sydney.

Heydon JD 1996, *Cross on evidence,* 5th Australian edition, Butterworth, Sydney.

Read P 1999a, *A rape of the soul so profound*, Allen and Unwin, Sydney.

—— 1999b 'Analysis of policy and practice in the removal of half-caste children in the Northern Territory', Part Four, in *'Lorna Cubillo and Peter Gunner v Commonwealth of Australia, Historical Report'*, 1999, FCA 518, 30 April 1999.

Read P and Read J (eds) 1991, *Long time, olden time: Aboriginal accounts of Northern Territory history*, Institute for Aboriginal Development Publications, Alice Springs, NT.