

The Pacific Islanders' Fund and the Misappropriation of the Wages of Deceased Pacific Islanders by the Queensland Government

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Public Lecture: 15 August 2013

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Abstract

In August 2013, while Queensland is marking the 150th anniversary of the arrival of the first Pacific Islander labourers, it is timely to contemplate the issue of the Pacific Islanders' Fund. The Queensland government's Pacific Islanders' Fund which operated between 1885 and the 1900s is unknown today. It was established in the Treasury to facilitate the operation of the *Pacific Island Labourers Act 1880 Amendment Act 1885* to safeguard return fares and to ensure that the money due to deceased Islanders was returned to their families. However, over time, because of the high death rates, the wages of deceased Islanders became so substantial that they were able to be used to supplement the administration of the whole labour trade. The Queensland government seldom returned the full wages to the families of the deceased Islanders and profited largely from their deaths. The process was both immoral and lacked fiduciary care. In today's money, millions of dollars were misappropriated, in similar fashion to wages misappropriated by the same government from Aborigines.

This paper explores the legislation, the payment of wages and the misappropriations that occurred from Pacific Islanders' wages. The aim is to estimate how much money that should have been legitimately paid to South Sea Islanders or their families was held back by the Queensland government, diverted for other purposes. The legal ramifications are explored and the conclusion suggests a fair way for the Queensland and Australian governments to redeem their tarnished reputations.

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August 1863

Exactly 150 years ago, at 9.00 pm Friday 14 August 1863 the 130 ton schooner *Don Juan* arrived off Moreton Island with sixteen crew under Captain George Gruebner and sixty-seven Pacific Islander passengers from Erromango, Tanna, and Efate in the southern New Hebrides, and Maré and Lifu, two of the Loyalty Islands off New Caledonia. After a medical inspection the ship proceeded up the Brisbane River to Redbank, between the modern day suburbs of Goodna and Riverview. The labour recruits disembarked and walked 57 km to Robert Towns' cotton plantation, Townsvale on the Logan River. Although other Pacific Islanders had been working in the Torres Strait since 1860, the Islander labourers on the *Don Juan* are generally regarded as the initial participants in the Queensland labour trade, receiving the first of 62,475 indenture contracts issued for Pacific Islanders to work as labourers in Queensland between 1863 and 1904.¹ Given the known pattern of re-enlistments from the islands it seems likely that there were about 50,000 individuals.

The Queensland Government and Indigenous People

Nineteenth-century Queensland did not have a good reputation for its treatment of its Indigenous peoples and there are many similarities with the ways in which the government regarded indentured Pacific Islander immigrant workers. All Indigenous peoples were considered to be racially inferior to European settlers. As well, colonial boundaries were not yet stable. When Queensland began its Pacific Islands labour trade in 1863 most of the Torres Strait was outside of the colony's territorial limits and the neighbouring Pacific Islands were also largely beyond any European territorial claims. During the nineteenth century, the colonial government regarded the islands around the Coral Sea and their indigenous inhabitants as its domain to exploit, just as it did Aborigines and Torres Strait Islanders and their land.² Another similarity between the treatment of Indigenous Queenslanders and Pacific Islanders was in relation to the payment of wages, particularly in the way goods were substituted for cash payments and bank accounts in trust funds were established and manipulated to the advantage of the government. Tens of thousands of Aborigines worked in the pastoral industry and Torres Strait Islanders worked in maritime industries. Many Aborigines had their full wages withheld and over several decades were paid in rations. The 1897 *Aboriginals Protection and Prevention of the Sale of Opium Act* established administrative districts supervised by 'Protectors', usually local police. From the 1890s until the 1970s, the Queensland Government had full control over the lives of Aborigines, including their bank accounts. The same does not seem to have applied to Torres Strait Islanders, although their accounts were redeemable at government controlled stores and they were encouraged to use Government Savings Bank accounts.³

In the 1990s, Dr Rosalind Kidd's research revealed the breaches of fiduciary duties (the legal obligation of a fiduciary is to act in the best interests of another person over whose affairs the fiduciary has legal control) via Queensland government misappropriation of money through placing Aboriginal wages into trust funds.⁴ Likewise, Pacific Islanders who worked in the pastoral, maritime and sugar industries between the 1860s and 1900s were often paid in goods; most only partly received their earnings in cash. Some of their earnings were banked for them and placed into a trust fund or their personal bank accounts; and the wages of deceased Islanders were placed into the Treasury's Pacific Islanders' Fund. In both cases—Indigenous Queenslanders and Pacific Islanders—the Queensland Government breached its fiduciary duty and trust. As Kidd, states, "A trust creates a legally binding obligation under which those who control the trust (trustees) hold the trust property for the benefit of another (beneficiary) and not for themselves in their role as trustees."⁵ The colonial and state Queensland government chose to ignore this responsibility and profited largely.

This paper explores the legislation, the payment of wages and the misappropriations which occurred. The aim is to estimate how much money that should have been legitimately paid to South Sea Islanders or their families was retained by employers and the Queensland government. The legal ramifications are explored and the conclusion suggests a fair way for the Queensland and Australian governments to redeem their tarnished reputations.

Legislation and the Labour Trade

Until 1868, most Pacific Islanders entered Queensland under contracts of indenture subject to the *Queensland Masters and Servants Act 1861* (25 Vic. No. 11). The first Act of Parliament specifically relating to the regulation of Islander indentured labourers was the *Polynesian Labourers Act* passed in 1868 (31 Vic. No. 47). This Act introduced Inspectors of Pacific Islanders and included schedules for a £500 recruiting bond (a surety) from every ship master or owner involved in the importation of Islander labourers, and an employer's contribution, either a bond of £10 (paid in cash) to the government to defray the cost of the return passage of every indentured Islander labourer, or a fee of fifteen shillings a quarter for "three years or thirty-nine moons" to cover the return fare and all government regulatory expenses. The *Pacific Island Labourers Act 1880* (44 Vic. No. 17), a major revision, replaced the 1868 Act. The 1880 Act introduced an extra £500 emigration bond (a surety) to ensure that ship's masters delivered all passengers and their property back to their correct island home at the end of their contracts, and reduced the return passage bond to £5 while increasing the administrative charge to thirty shillings per head. The number of passengers in relation to space on board was specified, and more regulations were added to control employment within the colony. The Pacific Islanders' Fund, the central issue of this paper, was established in the Treasury under an 1885 Amendment Act (49 Vic. No. 17) to administer the bonds, supervise the wages of deceased Islanders, and to increase the hospital capitation fee.

Wages

There is a myth in the contemporary Islander community that their forebears were not paid, which is untrue, although the base pay rate was far less than that of European workers. Onwards from 1860s the standard rate of pay was £6 per year for first-indentured labourers (paid every six months after 1880). The unfairness of this rate of payment, fixed for forty years in the face of wage inflation in the general workforce, has seldom been noted by historians. Four categories of Islander immigrants emerged: first-indenture labourers who had never left their islands before; those who re-enlisted in the islands; time-expired labourers; and ticket-holders. Re-enlistments occurred onwards from the late 1860s, and by the early 1890s more than one-quarter of the newly-arriving labourers were re-enlisting: for example, in 1897, 230 of the 934 new recruits (24.6 per cent) had previously served terms of indenture in Queensland, Fiji, New Caledonia or Samoa. Time-expired labourers were those who had completed one or more three-year agreement but opted to stay in Queensland and entered new agreements. The time-expired segment of the Islander work force grew increasingly important over the four decades of immigration. By 1895, time-expired Islanders made up 65 per cent of the Islanders. The ticket-holder category was created in *The Pacific Islander Labourers Act 1880 Amendment Act 1884* (47 Vic No. 12): Islanders who had resided in Queensland for five years before September 1884 had no restriction on the types of work they undertook. In 1884 there were 835 ticket-holders, in 1892 there were 716, 704 in 1901 and 691 in 1906. Expressed as a proportion of the overall Islander population in Queensland from 1885 to 1906, in any one year ticket-holders constituted between seven and eleven per cent of the Islander population. Labourers re-recruited in

the islands received around £10 to £12 a year between the mid-1880s and the 1900s, and re-enlisting labourers in Queensland earned £16 to £23 a year. Female workers always received a lower wage, except for those on first indentures. Ticket-holders were outside the indenture system and could earn independently, some running small businesses and farms.⁶ Total earnings were well in excess of one million pounds.⁷ The present-day Australian South Sea Islander population is largely descended from time-expired and ticket-holding Islanders.

Not all of their wages were paid in cash. Adrian Graves has researched the use of wages and truck (payment of wages in goods or money to be spent in shops in which the employer had a direct or indirect interest).⁸ Initially in the 1860s, Islanders were paid every three years or yearly and most often just in goods, which led to abuses. There was no mention of the method of wage payment in the 1868 Act although Form D, a 'Memorandum of Agreement' required employers to "pay wages in the coin of the realm at the end of each year of the agreement". Graves' evidence suggests that early employers ignored this and still paid in goods at the end of the three year contracts, a great advantage to the employers as the Islanders had no idea of the value or quality of the manufactured items they received. In theory, Islanders who disputed the value of wages paid could appeal to the local Magistrate's Court; but in practice they did not as they could not speak English, the legal process was intimidating, the *Oaths Act 1867* denied non-Christians the right to give sworn evidence, and the courts were often controlled by Justices of the Peace who were themselves employers of Islanders. As well, complaints under the *Masters and Servants Act* were only valid for six months, which meant that labourers could only hope to obtain six months of wages, even if the payment due was for three years, and when employers became bankrupt the *Wages Act* did not require the back payment of former employees.⁹

After pressure from Britain in the late 1870s, Queensland established a special trust account in the Government Savings Bank into which it encouraged employers to deposit Islanders' wages. Few did until stronger provisions were included in the 1880 Act, particularly stopping unauthorised deductions from wages. From 1880, the wages were paid half-yearly in the presence of the Inspectors of Pacific Islanders and there was an option to take the wages in cash or place them on deposit with a bank. Most Islanders seem to have banked their wages, or at least the major part of them. Not all used the Government Savings Bank because it was difficult to contact the Inspectors when withdrawals were needed. Some employers used their own accounts to hold Islanders' wages and doled out cash on request.¹⁰

We need to differentiate between cash and bank accounts, both quite alien to Pacific Islanders, and what were called 'trade goods', the desirable products of European technology—iron and steel items such as guns, axes and knives, and tobacco, cloth etc. Obtaining trade goods was their major motivation for participating in the labour trade. Cash was of little use back in the islands, except perhaps by the early 1900s. There was not necessarily anything wrong with being paid in goods; however, problems arose over equivalence and quality, particularly where employers ran their own shops or had interests in 'Kanaka stores' in the surrounding towns, thus profiting in the exchange. The goal was to return home with a trade box bulging with new possessions, most of which were then distributed to relatives to compensate for their absence and to advance their social positions.¹¹

Wages and the Queensland Government Savings Bank

One of the peculiarities of the Queensland labour trade was the use of bank accounts; Islanders had substantial amounts of their money held in the Queensland Government Savings Bank. Graves'

research shows that in 1884 23 per cent of the Islander deposits in the Government Savings Bank were in personal accounts, not in the wages trust fund. While no doubt there were abuses of the system, particularly where employers used their own accounts to hold Islander's wages, overall the banking system worked quite well. Bank accounts became a form of compulsory saving, safer than keeping money or boxes of possessions in flimsy accommodation on plantations and farms where fires occurred and items could be stolen by other Islanders. Graves calculated that in proportion to their numbers, the Islanders used the Government Savings Bank far more than the rest of the population of Queensland.¹²

As early as 1884, Islanders had £13,869 in the wages trust account administered by Inspectors of Pacific Islanders, and £3,917 in individual accounts held by the Government Savings Bank; there was also an unknown amount held in other banks, courtesy of employers.¹³ The Inspectors were trustees of the Islanders' savings bank accounts and the majority of the payments of wages were made in their offices, with the minority of payments made on plantations and farms, still witnessed by the Inspectors. There is a full record of credits and debits in the Islanders' Government Savings Bank accounts at Mackay between 1888 and 1904. The number of individual accounts fluctuated; for instance 1,271 in 1892 and 437 in 1894. The total amount deposited at Mackay ranged between £5,985 in 1893 and £2,900 in 1900. During an average year, £2,900 was deposited and a similar sum withdrawn. Individual deposits were small, most no more than five or six pounds, although Maryborough statistics show that some Islanders had up to £50 in their accounts. In 1901, Queensland Islanders had £32,693 deposited in the Government Savings Bank.¹⁴

Wages of Deceased Islanders

Up to 1907, the government profited by around £120,000 from the deaths of Islander indentured labourers. The return passage money held for deceased Islanders was not returned to employers, benefitting the Queensland government to the tune of £85,000. The 1885 Act (Clause 8) facilitated payment of wages owed to deceased Islanders directly into the Pacific Islanders' Fund. After paying any debts, the Minister was to "pay the surplus or any part thereof to any person proved in his satisfaction to be the next of kin or one of the next of kin of the deceased islander". As shown in Table One, only 15.6 per cent of the wages of deceased Islanders were deducted from the Pacific Islanders' Fund to purchase goods for relatives, a benefit to the government in excess of £35,000. As well, before 1885, employers seem to have kept the wages of deceased Islander employees which could have involved as much as £17,000.¹⁵ The 1885 Act mandated that the wages of deceased Islanders should to be paid directly to the government. While between 1863 and 1884 employers profited from being able to keep the wages; there was no alternative mechanism in place until 1885 to ensure payment. The only way to accomplish this was to pay the wages to the government and let the Immigrant Department through its Inspectors of Pacific Islanders and Government Agents on labour trade vessels arrange for the proceeds, in the form of trade goods, to be paid to the families of the deceased Islanders. This might seem beyond the call of duty, as no similar scheme applied to any other group of immigrants; however, the government needed the Islander labour and knew that compensation was expected in the islands for any death. If this was not arranged there may have been an escalation of violence against recruiters and the labour trade could not have continued.

The calculations above are based on Queensland government mortality statistics which show that around 15,350 Islander labourers died in Queensland between 1863 and 1906: 6,579 before 1885 and 8,771 onwards from 1885.¹⁶ This is by far the highest death rate for any group of immigrants into Australia. Pacific Islanders came from relatively isolated environments, lacking

immunity to many of the common diseases found on large land masses. For those newly arrived in Queensland, the common cold, tuberculosis, pneumonia, bronchitis and pleurisy were major killers. The Islanders also had no immunity to measles and chicken pox, which caused large numbers of deaths. Dysentery also occurred, particularly on plantations where sanitary standards were often low. If an Islander survived the first three years in Queensland, he or she would probably have lived until old age, remembering of course that in the nineteenth-century people died much younger than today. The upper band of the death rate for ticket-holders was a similar rate to Europeans in Queensland. Newcomers, the first-indenture labourers, always suffered worst. The death rate is a reprehensible 24 per cent of the total number of contracts and an even higher proportion of the individuals involved (around 30 per cent).¹⁷ The 1868 Act (Form D) specified that medical care was not to be deducted from wages and the 1880 Act (Part IV) introduced a medical capitation tax to be paid by employers. Government appropriation of the wages of deceased Islanders, partly to fund Islander hospitals, was both morally repugnant and quite possibly illegal.

The other relevant Act is an 1886 amendment to the 1880 Act (Vic. 50, No. 6) passed after a few years of astoundingly high death rates among the Islanders.¹⁸ Under the 1886 Act the cost of burial of any Islander dying while under indenture was to be paid by the employer, who was entitled to be recouped for a reasonable amount of cost out of the personal estate, if any, of the Islander. Most were buried in un-marked graves on plantations, at little cost.

The Pacific Islanders' Fund became the major source of finance for the administration of the labour trade and for health expenses of the Islanders in Queensland. Salaries, allowances and expenses for the Inspectors of Pacific Islanders, the Government Agents on labour trade vessels, as well as office expenses, advertising, survey fees, and hospital construction and operating costs, were all financed from the Fund. Absorbing the wages of deceased Islanders into the Fund, with good administrative intentions in 1885, meant that this money was easily misappropriated. The introduction of recruiting and hospital capitation fees did not provide enough money to finance the administration of the system. In 1887 the government admitted that without the inclusion of the deceased Islanders' wages "there would have been a heavy deficiency on this head".¹⁹ In other words, the administration and hospital system would have been a liability to the colony if the wages of deceased Islanders had not been appropriated.

The records of the Pacific Islanders' Fund were published in the *Votes and Proceedings of the Queensland Parliament*. These records are brief ledger entries, although a thorough search in the Queensland State Archives may uncover further records. My interpretation is that the Queensland government made a considerable financial gain from the estates of deceased Pacific Islander labourers; 84.4 per cent of the money was not returned to their descendants and was absorbed for other uses. This would seem to come into a similar category to the misuse of Indigenous wages held in trust by the same government, which has been subject to compensation claims and substantial payments in recent years.

Table 1: Deceased Islanders' Wages in the Pacific Islanders' Fund, 1885-1904 (along with incomplete figures 1880-1884)

Year	Deceased Islanders' Wages paid into the Fund: \$	Payments ex Deceased Islanders' Estates (including next of	Ledger Balance of Deceased Islanders' Estates: £	Source
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		kin claims): £		
1880-81	931.8.0	n.a	n.a	QVP 1881, 1, 325
1881-82	n.a.	n.a	n.a	
1882-83	n.a	n.a	n.a	
1883-84*	3,907.0.2	n.a.	n.a	QVP 1887, 3, 609
1884-85*	4,013.7.6	n.a.	n.a.	QVP 1887, 3, 609
1885-86	3,740.8.10	24.3.3	n.a.	QVP 1886, 2, 938; 1887, 3, 609
1886-87	2,736.12.1	261.7.8	19,764.15.7	QVP 1887, 3, 609-10
1887-88	2,414.9.9	223.6.2	21,955.19.2	QVP 1888, 3, 181-2
1888-89	2,067.6.2	193.14.1	22,920.0.0	QVP 1889, 3, 206, 223-4
1889-90	2,257.3.5	289.6.4	25,797.8.4	QVP 1990, 2, 1561-3
1890-91	1,603.5.4	271.13.2	27,129.0.6	QVP 1891, 3, 65
1891-92	1,521.6.11	159.6.5	28,491.1.0	QVP 1892, 2, 847-8
1892-93	1,301.5.9	135.7.0	29,656.19.9	QVP 1893, 2, 541-2
1893-94	1,341.16.3	273.12.1	30,725.3.11	QVP 1894, 2, 735-6
1894-95	866.15.1	167. 18.8	31, 414.11.0	QVP 1895, 2, 1013
1895-96	1,417.16.10	323.12.11	32,508.0.10	QVP 1896, 3, 199-200
1896-97	1,164.9.0	377.7.6	33,295.2.4	QVP 1897, 2, 1085-93,1093-4
1897-98	850.8.11	239.7.4	33,904.11.5	QVP 1898, 2, 735-36
1898-99	1,461.1.6	428.4.9	35,054.12.8	QVP 1899, 4, 981-2
1899-1900	1,071.5.0	328.4.9	35,701.16.1	QVP 1900, 5, 687-8
1901*	1,043.1.11	420.10.7	36,778.8.6	QVP 1902, 1, 118
1902*	1,071.4.3	493.1.5	37,357.18.10	QVP 1903, 2, 443
1903*	2,035.0.0	411.1.11	38,186.2.8	QVP 1904-05, 2, 64
1904*	3,761.5.9	276.14.0	39,363.17.5	QVP 1905, 1, 742-3

*From 1880 to 1900 the calculations are for the financial year. From 1901 they are for the calendar year.

Deportation and the 1900s

In 1901 all of this began to come to an end when the Commonwealth government passed an Act to achieve the deportation of the Islanders, Australia's only attempt at 'ethnic cleansing' of an entire immigrant group, and one of the cruellest pieces of legislation in Australian history.²⁰ This was the *Act to Provide for the Regulation, Restriction and Prohibition of the Introduction of Labourers from the Pacific Islands and for Other Purposes* (No. 16 of 1901).²¹ There were 9,844 Islanders living in Queensland and New South Wales in 1901. 7,068 were due for deportation between 1904 and 1908. No new Islander labourers entered Australia after early 1904 and natural attrition reduced the numbers as contracts ended and they returned home between 1903 and 1906. The number liable for deportation had been reduced to 4,000 at the end of the 1906. In that year, a Royal Commission recommended that some Islanders be allowed to stay in Australia: ticket-holders under the 1884 Act (691 in 1906), and another 1,380 on humanitarian grounds. An unknown number—up to 1,000—managed to disappear into the bush for several years, reappearing once attention had shifted away. Patricia Mercer calculated the residual Islander migrant population to be 2,500.²² Interestingly, the Pacific Islanders' Fund continued to operate after 1901 when Queensland became a state of the Commonwealth. Between 1885 and 1900 the Pacific Islanders' Fund was controlled by an Act of a British colony. After 1901, this was an Act of an Australian state. The federal government is complicit with the Queensland government in using the Pacific Islanders' Fund to help finance the mass deportation of 1907-1908.

No matter how unjust Acts of Parliament may have been, they were still legal. As long as the Queensland government followed the law, there is no remedy available. The question is was the administration of the Pacific Islanders' Fund within the law? Clause 10 of 1885 Act could be argued to allow the government to use the Pacific Islanders' Fund for any purpose it chose:

The money standing to the credit of "The Pacific Islanders' Fund" shall be available, and may be applied by order of the Governor in Council, for the payment of any expenses lawfully incurred in and about the execution of any of the provisions of "*The Pacific Island Labourers Acts, 1880-1885,*" or in and about any act or thing done by the Minister for the protection or benefit of any islanders."

The diversion of funds under Clause 10 of the 1885 Act was facilitated by weak financial management standards. Clause 4 of the *Audit Act 1874* (38 Vic. No. 12) prescribed that private moneys coming into the possession of the government should be placed in a trust fund, but did not require that it be segregated from other money or that it be used only for the benefit of the legal owner. The Queensland government would have to show that use of the Pacific Islanders' Fund under Clause 10 was done with permission of the Executive Council. Even if permission was given to drain the remainder of the wages of deceased Islanders and pass the money to the Commonwealth, it still does not explain why these wages were available and had never been returned to the next of kin.

Calculating the Extent of Misappropriation by the Queensland Government

Only an actuary or accountant working with interest rates between 1885 and today, and with knowledge of the rate of inflation, could satisfactorily calculate the amount of compound interest involved. Only a lawyer competent in financial and fiduciary duty litigation could assess the possibility of legal action by the present-day Australian South Sea Islander community or the governments of present-day Vanuatu, Solomon Islands, Papua New Guinea, New Caledonia (France),

Fiji, Kiribati or Tuvalu succeeding. The deceased Islanders came from all of these nations, although primarily from Vanuatu and Solomon Islands. It is quite clear that the amount of money involved is substantial and in today's money runs into millions of dollars.

While the Commonwealth wanted all Islanders to leave Australia, they were unwilling to fund the attempt at compulsory expulsion and tried first to divert the costs onto employers and then the Islanders themselves. In the end, the Commonwealth negotiated with the Queensland government to raid the Pacific Islanders' Fund.²³ The final report on Pacific Islander immigration was submitted to Queensland Parliament in 1905.²⁴ This included the last known balance of the deceased Islanders' account—£39,363. However, the overall balance of the Fund, £12,392 at the end of 1904-1905, proved insufficient to pay out the deceased estates as the Fund's balances had clearly been used to meet administrative costs. By 1907, all of the money had been used up—the Auditor-General reported a large payment of £17,746 under "Incidentals, Return Passages etc."²⁵ This expense was Queensland's contribution to the deportation of Islanders organized by the Commonwealth in 1907, financed out of what remained of the £5 per head return passage money and the wages of deceased Islanders. It took the Fund into deficit to the extent of £8,639 which was paid for from the government's overdraft at the Queensland National Bank. Further payments were made up to 1909 when the Fund was closed and the deficit £13,740 transferred to the Consolidated Revenue Fund in the 1909 budget.²⁶

In calculating the compound interest due on the deceased estates, the most appropriate starting points would be 1863, or 1880, or 1885, and the calculation would be a rolling amount of money. Because of this difficulty, let us assume that the base for the calculations is £39,364 in 1904. Because use of the wages of deceased Islanders relieved the Queensland government of a borrowing requirement, let us also assume that the government long-term bond yield is an appropriate interest rate. These rates from 1904 to 2012 have been included in Table Two and compounded forward each year. On this basis, the account accrues to \$38,221,511 in 2012. As a rough guide, using this method, every one thousand pounds in the 1900s is now worth one million dollars. If we use £35,000 (the money accruing from the wages of the deceased Islanders between 1885 and 1904) as our basic amount with which to begin the calculation, the value today is also in excess of thirty million dollars. If we use the £120,000 calculated earlier, the amount triples. There is no easy way to calculate the amount involved, although the inescapable conclusion is that it is substantial.

Limitations on Compensation

I argue that the Queensland government perpetrated a "fraudulent breach of trust" under the terms of the *Limitations of Actions Act 1974* in its administration of the Pacific Islanders' Fund. Today's descendants of the original labourers are entitled to recover trust property "converted to the trustee's use".²⁷ They were unaware of this breach of trust, which removes the limitation on action for compensation. The case is similar to that perpetrated against Aborigines as exposed by Dr Rosalind Kidd. Her evidence to the Human Rights and Equal Opportunity Commission Inquiry in 1996 resulted in what seems a substantial compensation offer by the Queensland government. In the early 1990s the Indigenous savings accounts were closed and in 2002 the Queensland government made a reparation offer to Aboriginal Queenslanders which included \$55.4 million, an apology, a parliamentary acknowledgement and a protocol to acknowledge traditional owners. By 2007 nearly \$20 million had been paid to over 5,500 people, another \$14.64 million was to be paid and the remaining \$21.23 million was paid into a Queensland Aboriginal and Torres Strait Islander Foundation. In 2008 the Queensland government re-opened the final reparations offer to those who

had not applied earlier. Six million dollars was put aside for this purpose and the offer closed on 30 April 2009, an attempt to end this disreputable and fraudulent affair.²⁸ However, the Queensland government limited individual payments to \$4,000, when in some cases vastly more was owed, and many payments were not made because the government could not locate its own records. While the amount sounds large it was nothing like the actual amount owed which was closer to \$500 million.²⁹

The Queensland government failed in its duty of care to honestly administer money held in trust. Whether this is also a failure of fiduciary duty is less clear. Although trust law is well defined, fiduciary law is a disputed area. In her book *Trustees on Trial*, Kidd notes that fiduciary relationships and fiduciary obligations depend on the demands of the particular circumstances and that courts often characterise government discretionary power as a political obligation, not a true trust in a commercial sense.³⁰ However, Canada and the USA courts have concluded that where governments acted as legal trustees and trust managers for Indigenous people they are responsible for the good management of that money or property; the amount at stake there is as high as \$US40 billion.³¹ Kidd notes that recent Australian Federal Court decisions recognise “a fiduciary duty enforceable by the courts if an economic interest is at stake”.³² The misuse of the Pacific Islanders’ Fund goes back further (1885), ended sooner (1906) and was for a smaller amount of money, but in all other ways it is similar to stolen Aboriginal wages.

There are two main difficulties with this comparison. First, in the cases of Queensland’s Aborigines and Indigenous North Americans, the people are indigenous to the territories. Despite the vagaries of nineteenth century Pacific territorial claims, as noted at the beginning of this paper, Pacific Islanders were immigrants. This may effect legal issues, despite the nature of trust funds and fiduciary duty. The second major difficulty in taking any legal action would be establishing the names of the individuals involved and tracing their descendants in Australia and the islands. Without these names, any case would be likely to fail, and we can presume that the current Queensland government would seek to place similar limits on payouts as was done by the Beattie government in the early 2000s. Some of the names can be retrieved from church, funeral home and cemetery registers, which were gathered in the research completed by Patricia Mercer and me in the 1970s. Other names may be available in the Queensland State Archives and in private records. This second issue would not be insurmountable but requires extra research.

Conclusion

The history of Queensland government abuse of Aboriginal wages held in bank accounts is beyond doubt, as is the avarice of some employers. There is reason to suspect that some fraudulent procedures were perpetrated on the Islanders as well. The vast majority of the Islanders found Immigration Department and banking procedures a mysterious process: there are many stories of them judging the value of coins by their size and avoiding paper money. To have their earnings reduced to a balance in a bank book must have perplexed them, remembering that the vast majority were illiterate and innumerate. The Immigration Department operated a complex ledger system; there were elaborate procedures in place to administer the Islanders’ presence in Queensland. It would be wrong to be damningly suspicious of all nineteenth century public servants any more than of those in the twentieth or this century, and although any system can be corrupted I have not uncovered any evidence that suggests large scale fraud, other than the massive misappropriation by the government itself. Individual bank accounts would have been dealt with in the same way as any other accounts; it is likely that some of the Islanders’ money ended up in the internal revenue of the

Queensland government when accounts became inactive. However, the Pacific Islanders' Fund was similar to the Indigenous trust funds and the Queensland government is responsible for the non-return of the money. After 1885, the government made sure that employers could not profit from the wages of deceased Islanders by establishing the Pacific Islanders' Fund, but in the outcome the government itself profited.

Australia's South Sea Islanders, descendants of Queensland's indentured Pacific Islanders (1863-1907) have been a patient people for 150 years. They are not indigenous Australians, although half of them through inter-marriage have Indigenous ancestry. Their current numbers are difficult to estimate: there are between 20,000 and 40,000, depending on whether we include Aborigines and Torres Strait Islanders with South Sea Islander ancestry. They have faced and survived many serious obstacles. Today, Australia's South Sea Islanders are part way to becoming a united community after a slow unification of the eighty islands and hundreds of language groups involved in the labour trade. Initially a substantial proportion of their forebears were kidnapped to come to Australia. Estimates vary as to the number who were physically forced into the labour trade: most historians estimate 10 to 15 per cent; the Islanders suggest a larger percentage. All of them were 'culturally kidnapped', meaning that Europeans took cultural advantage of their small-scale societies and enticed them to come to Australia under circumstances they could not fully comprehend. Once indentured in Queensland, they were servile bonded labour, paid poorly (by comparison with White labourers), often held in circumstances that can only be described as slave-like, and subjected to racial discrimination to an extent only matched by the way Indigenous Australians were treated. They suffered the highest death rate of any immigrants to Australia: an astounding 30 per cent. Then, as the trade unions became powerful and Islanders were no longer as cheap a source of labour, general sentiments to establish a 'White Australia' led to legislation in 1901 which ordered their deportation.

During the first half of the twentieth century, further government legislation and trade union pressure, particularly from the Australian Workers Union (AWU), ensured that those who remained were forced out of the sugar industry and their Australian-born offspring were treated likewise, even though they were Australian citizens. The community was left broken and divided, divorced from their island homes and unwanted in Australia.³³ It took until the 1970s for them to begin to come together as a nationally cohesive group and another twenty years, after several investigative reports, for the Australian and Queensland governments formally to recognise them as a distinct and socially and economically disadvantaged ethnic group.³⁴

This is not the first time the Australian South Sea Islander community have raised the matter of the Pacific Islanders' Fund with the Australian government. The deceased wages were raised in Islander petitions in 1902 and 1904,³⁵ and when Henry Tongoa and Alick Mallicoola (Malakula) travelled to Melbourne in 1906 on behalf of the Pacific Islanders' Association to meet with Prime Minister Alfred Deakin on 17 September and 1 October. One of the issues they discussed with Deakin was the "disposition of the Pacific Islander' Fund", to no avail.³⁶ Present-day Australian South Sea Islanders knew nothing of the Pacific Islander's Fund until I drew it to their attention in 2012.

In 2013, 150 years after the first Pacific Islanders arrived in Queensland, and 166 years after the first Islander labourers were imported into New South Wales,³⁷ surely it is time for the Queensland, New South Wales and Australian governments to acknowledge the wrongs of the past and to provide adequate support for the Australian South Sea Islander community? At the very least the Queensland and Australian governments should admit the misappropriation of the wages of

deceased Islanders and attempt to restore dignity to this ethnic community. In February 2013, when the *Act of Recognition* was passed by the House of Representatives, Prime Minister Gillard said: "We must never feel guilt for the things already done in this nation's history, but we can – and must – feel responsibility for the things that remain undone".³⁸ I agree with her sentiments and believe that they extend to Australia's South Sea Islanders. No one living today has responsibility for the treatment the Islanders have received in the past, but the cumulative effect is that these Australians have never in 150 years been able to enjoy the socio-economic security of average Australians. All surveys show them to be a disadvantaged immigrant ethnic group living in conditions not markedly different from Indigenous urban Australians.

Direct compensation to the families of descendants of the Islanders whose wages were misappropriated may now be difficult, but acknowledgement that this travesty occurred is a necessary part of healing for the Australian South Sea Islander community. Accordingly, a most appropriate outcome would be for the Queensland and Australian governments to establish and adequately fund a new Foundation to assist in broader education for Australian South Sea Islanders, with a component for use in Vanuatu and Solomon Islands, and to assist the Australian descendants to re-link with their families back in the islands.³⁹ Governments can also assist the Australian descendants to re-link with their families back in the islands. The Vanuatu Government made a significant move on 28 July by introducing a Blackbirding commemoration day into their independence celebrations, encouraging ASSI to return and reunite with their families. Vanuatu is investigating dual citizenship rights for ASSI. The Commonwealth could make the floundering Seasonal Workers scheme operate effectively, once more returning money to the islands through labour in Australia.

Perhaps also, following on Premier Beattie's 2000 recognition of and apology to Australian South Sea Islanders in Queensland, and Prime Minister Rudd's 2008 apology to the Stolen Generation, it is time for further healing with a formal apology from the next Prime Minister to Australia's South Sea Islanders.

Table 2: Pacific Islanders Fund: The Accrued Balance of Deceased Estates, 1905-2012
(£ until 1966, \$ thereafter)

Date	Interest rate	Compounding	Date	Interest rate	Compounding
1905	4.01	39,364.00	1959	4.97	387,857.45
1906	3.45	40,694.50	1960	4.83	406,590.96
1907	3.38	42,147.30	1961	5.34	428,302.92
1908	3.57	43,689.89	1962	4.88	449,204.10
1909	3.66	45,358.84	1963	4.72	470,406.54
1910	3.82	47,009.90	1964	4.29	490,586.98
1911	3.64	48,810.38	1965	4.76	513,938.92
1912	3.83	51,177.69	1966	5.15	1,080,813.54
1913	4.85	53,352.74	1967	5.02	1,135,070.38
1914	4.25	55,737.61	1968	5.10	1,192,958.97
1915	4.47	58,557.93	1969	4.91	1,251,533.25
1916	5.06	61,679.07	1970	5.64	1,322,119.73
1917	5.33	64,726.01	1971	6.41	1,406,867.60
1918	4.94	68,150.02	1972	5.71	1,487,199.74
1919	5.29	72,150.42	1973	5.30	1,566,021.33
1920	5.87	77,359.68	1974	8.05	1,692,086.05
1921	7.22	82,604.67	1975	8.04	1,828,129.77
1922	6.78	87,800.50	1976	8.45	1,982,606.73

1923	6.29	93,077.32	1977	8.80	2,157,076.12
1924	6.01	98,624.72	1978	8.28	2,335,682.03
1925	5.96	103,753.21	1979	8.46	2,533,280.73
1926	5.20	109,293.63	1980	9.95	2,785,342.16
1927	5.34	115,228.27	1981	11.08	3,093,958.07
1928	5.43	121,289.28	1982	13.87	3,523,090.05
1929	5.26	128,045.09	1983	12.43	3,961,010.15
1930	5.57	128,045.09	1984	13.75	4,505,649.04
1931	6.51	136,380.83	1985	13.50	5,113,911.66
1932	4.68	142,763.45	1986	12.95	5,776,163.23
1933	3.92	148,359.78	1987	12.80	6,515,512.12
1934	3.61	153,715.57	1988	11.95	7,294,115.82
1935	3.31	158,803.55	1989	13.50	8,278,821.45
1936	3.74	164,742.81	1990	13.40	9,388,183.53
1937	4.02	171,365.47	1991	11.17	10,436,843.63
1938	3.68	177,671.72	1992	8.90	11,365,722.71
1939	3.90	184,600.91	1993	7.37	12,203,376.47
1940	3.80	191,615.75	1994	9.63	13,378,561.63
1941	3.09	197,536.68	1995	8.86	14,563,902.19
1942	3.25	203,956.62	1996	8.93	15,864,458.65
1943	3.23	210,544.42	1997	7.05	16,982,902.99
1944	3.24	217,366.05	1998	5.58	17,930,548.97
1945	3.24	224,408.72	1999	6.27	19,054,794.39
1946	3.25	231,702.00	2000	6.16	20,228,569.73
1947	3.21	239,139.63	2001	6.04	21,450,375.34
1948	3.17	246,720.36	2002	5.99	22,735,252.82
1949	3.13	254,442.71	2003	5.01	23,874,288.99
1950	3.12	262,381.32	2004	5.87	25,275,709.75
1951	3.17	270,698.81	2005	5.11	26,567,298.52
1952	3.75	280,850.01	2006	5.79	28,105,545.11
1953	4.53	293,572.52	2007	6.26	29,864,952.23
1954	4.40	306,489.71	2008	6.45	31,791,241.65
1955	4.52	320,343.04	2009	5.52	33,546,118.19
1956	4.53	334,854.58	2010	5.1	35,256,970.21
1957	5.09	351,898.68	2011	5.21	37,093,858.36
1958	5.00	369,493.61	2012	3.04	38,221,511.66

Sources: David Pope, *Australian Money and Banking, Source Papers in Economic History No. 11*, ANU 1986, Table 7; Reserve Bank of Australia, www.rba.gov.au/statistics/tables/index.html#interestrates-Table F2.

ACKNOWLEDGEMENTS

I am indebted to Professors Jennifer Corrin and Peter Spearritt, Associate Professors Steve Mullins and Doug Hunt, Drs B.Roshan DeSilva Wijeyeratne and Max Quanchi, and Mr Les Henning for assistance with aspects of this paper. Helen McMonagle contributed as a research assistant. This paper is dedicated to Rhoda Lamon and Esther Henaway, and to Shireen Malamoo who insisted that I write it.

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- ¹⁰ Graves, *Cane and Labour*, pp. 156-160.
- ¹¹ Moore, *Kanaka*, pp. 47-100 contains an extensive argument about the motivations for enlistment from Malaita Island.
- ¹² Graves, *Cane and Labour*, pp. 156-160.
- ¹³ "Savings Bank Deposits by Polynesians", *Queensland Votes and Proceedings (QVP)*, (1884) Vol. 2, pp. 845-847.
- ¹⁴ Moore, *Kanaka*, pp. 179-180, 182-183.
- ¹⁵ Graves, *Cane and Labour*, pp. 248-249. I have calculated the amount based on 2,000 wages at £6 a year and 500 at £10 a year. It is not possible to be more precise as Islanders would have died at various stages of their three-year contracts, and pay rates varied.
- ¹⁶ Graves, *Cane and Labour*, pp. 248-249.
- ¹⁷ Moore, *Kanaka*, pp. 244-262; Ralph Shlomowitz, "Mortality and the Pacific Labour Trade", *Journal of Pacific History*, Vol. 22, No. 1 (1987), pp. 34-55.
- ¹⁸ At Mackay 323 Islanders died in 1883 from the Islander population of 3,845 (8.4 per cent). In 1884 823 died in a population of 3,697 (22.26 per cent). The majority of the dead were recruits newly arrived from the islands off eastern New Guinea. Moore, *Kanaka*, p. 241.
- ¹⁹ Pacific Islanders' Fund Annual Statement of Account, *QVP*, 1887, Vol. 3, p. 609.
- ²⁰ Peter Corris, "'White Australia' in Action: The Repatriation of Pacific Islanders from Queensland", *Historical Studies*, Vol. 15, No. 58 (April 1972), pp. 237-50; Clive Moore, "'Good-Bye, Queensland, Good-Bye, White Australia; Good-Bye Christians': Australia's South Sea Islander Community and Deportation, 1901-1908", *The New Federalist*, No. 4 (December 2000), pp. 22-29.
- ²¹ http://foundingdocs.gov.au/resources/transcripts/cth4i_doc_1901.pdf (accessed 6 August 2013).
- ²² Patricia Mercer, *White Australia Defied: Pacific Islander Settlement in North Queensland* (Studies in North Queensland History No. 21), Townsville: Department of History and Politics, James Cook University, 1995, p. 99. The figures do not balance because some ticket-holders also applied for exemption.
- ²³ Mercer, *White Australia Defied*, p. 94.
- ²⁴ *QVP*, 1905, Vol. 1, pp. 741-46.
- ²⁵ *QVP*, 1907, Vol. 1, p. 142.
- ²⁶ *Brisbane Courier*, 19 November 1909, 5; *The Economist* (London), 10 April 1909, p. 782.
- ²⁷ The Queensland *Limitations of Actions Act 1974* governs limitation on compensatory action. Section 27 is applicable: 27 Actions in respect of trust property. (1) A period of limitation prescribed by this Act shall not apply to an action by a beneficiary under a trust, being an action—(a) in respect of a fraud or fraudulent breach of trust to which the trustee was a party or privy; or (b) to recover from the trustee trust property or the proceeds thereof in the possession of the trustee, or previously received by the trustee and converted to the trustee's use. 2) Subject to subsection (1), an action by a beneficiary to recover trust property or in respect of a breach of trust, not being an action for which a period of limitation is prescribed by any other provision of this Act, shall not be brought after the expiration of 6 years from the date on which the right of action accrued.
- <http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/L/LimActionsA74.pdf> (accessed 1 June 2013).

²⁸ Department of Aboriginal and Torres Strait Islander and Multicultural Affairs, History of Stolen Wages and Savings in Queensland", <http://www.datsima.qld.gov.au/atsis/aboriginal-torres-strait-islander-peoples/claims-and-entitlements/history-of-stolen-wages-and-savings-in-queensland> (accessed 25 May 2013).

²⁹ Kidd, *Trustees on Trial*, p. 10.

³⁰ Kidd, *Trustees on Trial*, p. 37.

³¹ Kidd, *Trustees on Trial*, pp. 21, 22-35,

³² Ros Kidd, "Stolen Wages — US and Australia", <http://www.linksdisk.com/roskidd/tpages/t31.htm> (accessed 25 May 2013).

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³⁵ Mercer, *White Australia Defied*, p. 94.

³⁶ Moore, "'Good-Bye, Queensland'", p. 28; *Brisbane Courier*, 2 October 1906, p. 5.

³⁷ Marion Diamond, *The Sea Horse and the Wanderer: Ben Boyd in Australia*, Melbourne: Melbourne University Press, 1988, pp. 126-140

³⁸ *The Australian*, 13 February 2013.

³⁹ Queensland has established an Australian South Sea Islander Community Foundation, which has a more limited purpose: <http://www.datsima.qld.gov.au/resources/multicultural/media/assi-foundation.pdf> (accessed 16 September 2013).

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