

SUBMISSION NO. 1

Joint Standing Committee on the National Capital and External Territories: Inquiry into local governance on Norfolk Island

Submission from Robin Adams JP, Norfolk Islander of Pitcairn descent; Australian citizen and Minister for Cultural Heritage and Community Services in the 14th Norfolk Island Government

The Joint Standing Committee (the JSC) is to inquire into and report on equitable revenue sources to support the economic viability of the Norfolk Island Regional Council and the operation and governance of local government. However I submit that before one can undertake an inquiry of this nature it behoves the Committee to make itself aware of “our story” -

- who the Norfolk Island people are;
- where they came from;
- what their culture, heritage and traditions are; and
- how their uniqueness as a people must be fostered rather than lost in time.

This personal submission seeks to assist the Committee, as simplistically as possible, to understand and respect “our story” and protect “our people” and “our way of life” for generations to come. This submission sets the scene for Submission No. 2 to be lodged by me as the former Mayor of the first Norfolk Island Regional Council.

I believe that “our story” can best be told through documents already published; and to that end the following documents are provided:

1. ***Order in Council of Queen Victoria 24 June AD 1856 –***

“..... Norfolk Island is ordered and declared to be and is a distinct and separate settlement....”

SEE ATTACHMENT A

2. ***The Norfolk Island Act 1913.***

“3. Norfolk Island is by this Act declared to be accepted by the Commonwealth as a Territory under the authority of the Commonwealth by the name of Norfolk Island.

“4. (1) Subject to this Act, the laws, rules and regulations in force in Norfolk Island at the commencement of this Act shall continue in force, but may be altered or repealed by Ordinance made in pursuance of this Act.

“ (2) Where in any law, rule, or regulation in force in Norfolk Island at the commencement of this Act, any reference is made to the Governor, the reference shall be deemed to be made to the Governor-General.

“5. The Acts of the Parliament (except this Act) shall not be in force in Norfolk Island unless expressed to extend thereto”

SEE ATTACHMENT B

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3. ***The Preamble to the Norfolk Island Act enacted in 1979*** by the Commonwealth Parliament of Australia. Notwithstanding that the Preamble was removed from this Act in 2015 the historical component of the document in the main remains relevant to today.

SEE ATTACHMENT C

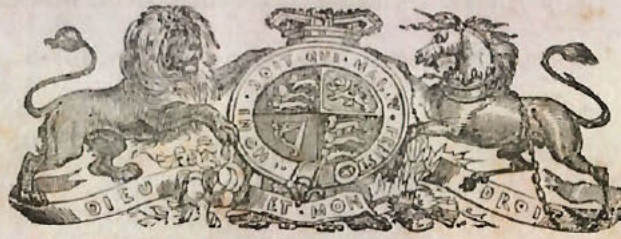
4. ***"The Commonwealth of Australia and Norfolk Island: Bridging the Divide"***
From 1979 through to 2016 Norfolk Island was an active participant in activities of the global body known as the Commonwealth Parliamentary Association (the CPA) and participated alongside Australia in the CPAs affairs; including membership of the executive committee. Norfolk Island contributed many articles for the quarterly publication ***The Parliamentarian***.

The CPA article - ***"The Commonwealth of Australia and Norfolk Island: Bridging the Divide"*** - is topical to the current JSC Inquiry and will assist the Committee in understanding "our story"..

SEE ATTACHMENT D

Lodged by Robin Adams JP on 20 March 2023





SUPPLEMENT

TO THE

NEW SOUTH WALES

Government Gazette

OF FRIDAY, 31 OCTOBER, 1856.

PUBLISHED BY AUTHORITY.

No. 166.]

SATURDAY, 1 NOVEMBER.

[1856.]

PROCLAMATION.

By His Excellency SIR WILLIAM THOMAS DENISON, Knight Commander of the Most Honorable Order of the Bath, Governor General in and over all Her Majesty's Colonies of New South Wales, Tasmania, Victoria, South Australia, and Western Australia, and Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, &c., &c., &c.

WHEREAS, at the Court held at Buckingham Palace, on the 24th day of June, A.D. 1856, by the Queen's Most Excellent Majesty, it was by Her Majesty's Order in Council, after reciting that, in pursuance of the authority vested in Her Majesty by an Act of Parliament made and passed in the Session of Parliament, held in the sixth and seventh years of Her Majesty's reign, intituled, "*An Act to amend so much of an Act of last Session for the Government of New South Wales and Van Diemen's Land as relates to Norfolk Island*," wherein it was amongst other things enacted, that it should be lawful for Her Majesty, by Letters Patent, under the Great Seal of the United Kingdom of Great Britain and Ireland, to sever Norfolk Island from the Government of New South Wales, and to annex it to the Government and Colony of Van Diemen's Land; and that Her Majesty, in exercise of the powers so vested in Her Majesty aforesaid by the said recited Act of Parliament, had, by Her Commission, under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date the 24th October, 1848, appointed that from and after the 29th day of September, 1844,

the said Island, called Norfolk Island, should be severed from the Government of New South Wales, and annexed to the Government and Colony of Van Diemen's Land; and that, by a certain Act of Parliament passed in the Session of Parliament, held in the eighteenth and nineteenth years of the reign of Her said Majesty, intituled, "*An Act to repeal the Acts of Parliament then in force respecting the disposal of the Waste Lands of the Crown in Her Majesty's Australian Colonies, and to make other provisions in lieu thereof*," it was amongst other things provided, that it should be lawful for Her Majesty, at any time, by Order in Council, to separate Norfolk Island from the Colony of Van Diemen's Land, and to make such provision for the Government of Norfolk Island as might seem expedient, ordered and declared by Her Majesty, by and with the advice of Her Privy Council, that, from and after the date of the Proclamation of this Her Order in New South Wales, the said Island, called Norfolk Island, should be thereby separated from the said Colony of Van Diemen's Land, (now called Tasmania); and that, from the date of the Proclamation of that Order, all power, authority, and jurisdiction of the Governor, Legislature, Courts of Justice, and Magistrates of Tasmania, over the said Island, should cease and determine: And it was thereby further ordered and declared, that, from the date aforesaid, the said Island, called Norfolk Island, should be a distinct and separate Settlement, the affairs of which should, until further order in that behalf by Her Majesty, be administered by a Governor for that purpose appointed by Her Majesty, with the advice and consent of Her Privy Council: And it was thereby further ordered and declared,

that the Governor and Commander-in-Chief for the time being in and over the Colony of New South Wales should be, and he was thereby constituted and appointed Governor of the said Island, called Norfolk Island, in whom were thereby vested all power and authorities which by that Order were given and granted to the Governor for the time being of the said Island, called Norfolk Island: And it was thereby further ordered and declared, that, in the event of the death or incapacity of the said Governor and Commander-in-Chief in and over the Colony of New South Wales, or in the event of his absenting himself from the said Colony otherwise than for the purpose of visiting the said Island, called Norfolk Island, then in either of these cases, the Officer for the time being who might be administering the Government of the said Colony of New South Wales should be thereby constituted and appointed Governor for the time being of the said Island, called Norfolk Island: And it was thereby further ordered, that the said Governor of the Island called Norfolk Island should keep and use the Public Seal appointed for the sealing of all things whatsoever that should pass the Seal of the said Island: And it was thereby ordered and declared, that from the date aforesaid the Governor for the time being of the said Island, called Norfolk Island, should have full power and authority to constitute and appoint Judges, Justices of the Peace, and other necessary Officers and Magistrates in the said Island for the administration of justice: And it was thereby further ordered and declared, that from the date aforesaid the said Governor for the time being of the said Island called Norfolk Island, should have full power and authority to make Laws for the order, peace, and good government of the said Island, subject nevertheless to such Rules and Regulations as Her Majesty at any time by any instruction or instructions with the advice of Her Privy Council, under Her Sign Manual and Signet, might think fit to prescribe in that behalf: And it was thereby further ordered and declared, that from the date aforesaid the said Governor for the time being of the said Island, called Norfolk Island, should have full power and authority in Her Majesty's name, and in Her behalf, but subject nevertheless to the Rules and Regulations which might be prescribed by any such instructions as aforesaid, to make Grants of Waste Lands to Her Majesty belonging within the said Colony to private persons for their own behalf, or to any persons, bodies politic or corporate, in trust for the public use of Her Majesty's subjects, there resident, or any of them: And it was thereby further ordered and declared that until annulled by competent authority, all Laws, Ordinances and Regulations, Civil and Ecclesiastical, which might be in force within the said Island, called Norfolk Island, at the time when that Order in Council might be proclaimed as aforesaid, should continue in force, subject only to such changes as should be necessarily consequent on the changes of Government: Now, therefore, I, SIR WILLIAM THOMAS DENISON, Knight Commander of the Most Honorable Order of the Bath, Governor and Commander-in-Chief for the time being in and over the Colony of New South Wales, in pursuance of the authority in me vested by Her Majesty, and in obedience to the above Order in Council of the 24th June, A.D. 1856, do hereby proclaim, that from the date of these presents the said Island, called Norfolk Island, is hereby separated from the said Colony of Van Diemen's Land, (now called Tasmania), and from this date all power, authority, and jurisdiction of the Governor

Legislature, Courts of Justice, and Magistrates of Tasmania, over the said Island, called Norfolk Island, do cease and determine from the date of these Presents: And that the said Island, called Norfolk Island, is ordered and declared to be and is a distinct and separate settlement, and that I, the Governor and Commander-in-Chief for the time being in and over the said Colony of New South Wales, am constituted and appointed Governor of the said Island, and that in the event of the death or incapacity of me, the said Governor and Commander-in-Chief in and over the Colony of New South Wales, or in the event of my absenting myself from the said Colony, except for the purpose of visiting the said Island, called Norfolk Island, then in either of these cases, the officer for the time being who may be administering the Government of the said Colony of New South Wales, shall be, and hereby is constituted and appointed Governor for the time being of the said Island, called Norfolk Island. And I do assume the appointment of Governor of the said Island called Norfolk Island, and will keep and use the Great Seal appointed by Her Majesty in Council for the sealing of all things that should pass the Seal of the said Island; and I will exercise and employ the full power and authority vested in me, to constitute and appoint Judges, Justices of the Peace, and other necessary Officers and Magistrates in the said Island, for the administration of justice; and I will use the full power and authority in me vested to make laws for the order, peace, and good government of the said Island, called Norfolk Island, subject to such Orders and Regulations as Her Majesty at any time by any instruction or instructions, with the advice of Her Privy Council, under Her Sign Manual and Signet, may think fit to prescribe in that behalf; and that from the date of these presents, the Governor for the time being of the said Island, called Norfolk Island, shall have full power and authority in Her Majesty's name, and in Her behalf, but subject, nevertheless, to the Rules and Regulations which may be prescribed by any such instructions as aforesaid, to make grants of waste lands to Her Majesty belonging within the said Island, to private persons, bodies politic or corporate, in trust for the public use of Her subjects there resident, or any of them: And I hereby further proclaim, that from the date of these presents until annulled by competent authority, all Laws Ordinances and Regulations, Civil and Ecclesiastical, which may be in force within the said Island, called Norfolk Island, at the time and date of this Proclamation, shall continue in force, subject only to such changes as shall be necessarily consequent on the changes of Government.

Given under my Hand and Seal, at Government House, Sydney, New South Wales, this thirty-first day of October, in the year of our Lord one thousand eight hundred and fifty-six.

(L.S.) W. DENISON.

By His Excellency's Command,
HY. WATSON PARKER.

GOD SAVE THE QUEEN!

SYDNEY:

Printed by WILLIAM HANSON, Government Printer,
Phillip-street, 1st November, 1856.

Norfolk Island Act.

COMMONWEALTH OF AUSTRALIA.



NORFOLK ISLAND ACT.

No. 15 of 1913.

An Act to provide for the acceptance of Norfolk Island as a Territory under the authority of the Commonwealth, and for the Government hereof.

[Assented to 19th December, 1913.]

S by an Act of the Parliament of the United Kingdom, made and passed in the sixth and seventh years of the reign of Her late Majesty Queen Victoria, intituled "An Act to amend so much of an Act of the last Session, for the Government of New South Wales and Van Diemen's Land, as relates to Norfolk Island," it was, amongst other things, enacted that it should be lawful for Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, to sever Norfolk Island from the Government of New South Wales and to annex it to the Government and Colony of Van Diemen's Land: Preamble, 6 and 7 Vic. c. 35.

And whereas Her late Majesty Queen Victoria, in exercise of the powers vested in Her by the said by a Commission under the Great Seal of the United Kingdom bearing date the twenty-fourth day of October, 1843, appointed that from and after the twenty-ninth day of September, 1844, Norfolk Island should be severed from the Government of New South Wales and annexed to the Government and Colony of Van Diemen's Land: Commission, 24th October, 1843.

And whereas by an Act of the Parliament of the United Kingdom, called the Australian Waste Lands Act 1855, it was, amongst other things, provided that it should be lawful for Her Majesty at any time, by Order in Council, to separate Norfolk Island from the Colony of Van Diemen's Land and to make such provision for the Government of Norfolk Island as might seem expedient: 18 and 19 Vic. c. 56.

And whereas by an Order in Council dated the twenty-fourth day of June, 1856, made by Her Majesty in pursuance of the last-mentioned Act, it was ordered and declared, amongst other things, that from and after the date of the proclamation of the Order in New South Wales Norfolk Island should be thereby separated Order in Council, 24th June, 1856.

Norfolk Island Act.

from the said Colony of Van Diemen's Land (now called Tasmania) and that from that date all power, authority, and jurisdiction of the Governor, Legislature, Courts of Justice, and Magistrates of Tasmania over Norfolk Island should cease and determine, and that from the said date Norfolk Island should be a distinct and separate Settlement the affairs of which should until further Order in that behalf by Her Majesty be administered by a Governor to be for the purpose appointed by Her Majesty with the advice and consent of Her Privy Council: and it was thereby further ordered that the Governor and Commander-in-Chief for the time being of the Colony of New South Wales should be, and he thereby was, constituted Governor of Norfolk Island, with the powers and authorities in the said Order mentioned:

And whereas the said Order in Council was proclaimed in New South Wales on the first day of November, One thousand eight hundred and fifty-six.

Order in Council,
15th January,
1897.

And whereas by an Order in Council dated the fifteenth day of January, 1897, made in pursuance of the said last-mentioned Act, Her late Majesty, after reciting that it was expedient that other provision should be made for the government of Norfolk Island, and that, in prospect of the future annexation of Norfolk Island to the Colony of New South Wales or to any Federal body of which that Colony might thereafter form part, in the meantime the affairs of Norfolk Island should be administered by the Governor of New South Wales as therein provided, was pleased to revoke the said Order in Council of the twenty-fourth day of June One thousand eight hundred and fifty-six, and to order that the affairs of Norfolk Island should thenceforth, and until further Order should be made in that behalf by Her Majesty, be administered by the Governor and Commander-in-Chief for the time being of the Colony of New South Wales and its Dependencies:

And whereas the said Order in Council was published in the New South Wales *Government Gazette* on the nineteenth day of March, One thousand eight hundred and ninety-seven, and took effect at that date:

Order in Council,
18th October,
1900.

And whereas by an Order in Council dated the eighteenth day of October, One thousand nine hundred, made in pursuance of the said last-mentioned Act, Her late Majesty was pleased to revoke the said Order in Council of the fifteenth day of January, One thousand eight hundred and ninety-seven, and to order that the affairs of Norfolk Island should thenceforth, and until further Order should be made in that behalf by Her Majesty, be administered by the Governor for the time being of the State of New South Wales and its Dependencies:

And whereas the said Order in Council was published in the New South Wales *Government Gazette* on the first day of January, One thousand nine hundred and one, and took effect at that date:

Norfolk Island Act.

And whereas the Parliament of the Commonwealth is willing that Norfolk Island should be placed under the authority of, and accepted as a Territory by, the Commonwealth:

And whereas by the Constitution it is provided that the Parliament may make laws for the Government of any Territory placed by the King under the authority of and accepted by the Commonwealth:

Constitution
s. 122.

Be it therefore enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Norfolk Island Act 1913.*

Short title.

2.—(1.) This Act shall not come into operation until the King has been pleased to place Norfolk Island under the authority of the Commonwealth, and the Governor-General has been pleased, by proclamation, to fix a day for the commencement of this Act.^(a)

Commencement.

(2.) Subject to sub-section (1.), this Act shall come into operation on the day fixed by the Governor-General for the commencement of this Act.

3. Norfolk Island is by this Act declared to be accepted by the Commonwealth as a Territory under the authority of the Commonwealth by the of Norfolk Island.

Acceptance of
Norfolk Island.
Cl. 1905, No. 9,
s. 6.

✓ 4.—(1.) Subject to this Act, the laws, rules and regulations in force in Norfolk Island at the commencement of this Act shall continue in force, but may be altered or repealed by Ordinance made in pursuance of this Act.

Continuance of
laws.
Cl. 1905, No. 9,
s. 6.

(2.) Where in any law, rule, or regulation in force in Norfolk Island at the commencement of this Act, any reference is made to the Governor, the reference shall be deemed to be made to the Governor-General.

✓ 5. The Acts of the Parliament (except this Act) shall not be in force in Norfolk Island unless expressed to extend thereto.

Commonwealth
Acts not in
force.
Cl. 1905, No. 9,
s. 6.

6. The Executive Council of Norfolk Island, as existing at the commencement of this Act, shall continue in existence, but may be altered or abolished by Ordinance made in pursuance of this Act.

Continuance of
Executive
Council.

✓ 7. Judges, Magistrates, and other public officers for Norfolk Island shall continue in office as if appointed under this Act.

Continuance of
officers.
Cl. 1905, No. 9,
s. 6.

8.—(1.) Subject to this Act, the Governor-General may make ordinances for the peace, order, and good government of Norfolk Island.

Laws for
Norfolk Island.

(2.) Ordinances made by the Governor-General shall be published in Norfolk Island in the manner directed by the Governor-General, and shall come into force at a time to be fixed by the Governor-General not being before the date of their publication in Norfolk Island.

(a) Proclaimed to commence on 1st July, 1914. See Commonwealth Government Gazette of 17th June, 1914.

Norfolk Island Act.

(3.) Every Ordinance made by the Governor-General shall be laid before both Houses of the Parliament within thirty days after the making thereof if the Parliament is then sitting, and if not, then within thirty days after the next sitting of the Parliament.

(4.) If within thirty days after any Ordinance has been laid before it, either House of the Parliament passes a resolution disagreeing with the Ordinance or any part of it, the Ordinance or part, as the case requires, shall cease to have effect.

Appointment
of officers.
Cl. 1905, No. 9,
s. 17.

✓ 9.—(1.) The Governor-General may constitute and appoint such Judges, Magistrates, and ~~Officers~~ as he thinks necessary for the good government of Norfolk Island.

(2.) Judges, Magistrates, and officers appointed under this section shall hold office during the pleasure of the Governor-General.

3.) This section shall not affect any power of appointment vested in the Chief Magistrate or other person under the law for the time being in force in Norfolk Island.

Grants of land.
Cl. 1905, No. 9,
s. 20.

10. The Governor-General, or any person authorized by him, may, in accordance with law, make grants or other dispositions of Crown lands in Norfolk Island.^(a)

Appeals.
Cl. 1905, No. 9,
s. 43.

✓ 11.—(1.) The High Court shall have jurisdiction, with such exceptions, and subject to such conditions as are prescribed by Ordinance made by the Governor-General, to hear and determine appeals from all judgments, decrees, orders, and sentences of any Judge or of the Chief Magistrate acting judicially in Norfolk Island, and the judgment of the High Court shall be final and conclusive.

(2.) The Governor-General may by Ordinance that an appeal to the High Court, in pursuance of this section, may, *inter alia*, be by case stated with the legal argument attached thereto in writing, and that it shall not be necessary for the parties to appear either personally or by counsel.

Grant of
pardon to
accomplice.
Cl. 1905, No. 9,
s. 44.

12. Where an offence has been committed within Norfolk Island, or for which the offender may be tried therein, the Governor-General may, in the name of the King, grant a pardon to any accomplice who gives evidence that leads to the conviction of the principal offender or any of the principal offenders.

Grant of
pardon and
remission of
sentences and
forfeitures.
Cl. 1905, No. 9,
s. 45.

13. The Governor-General may, in the name of the King, grant to any offender convicted in any Court or before any Judge or Magistrate in Norfolk Island a pardon, either free or conditional, or any remission of sentence, or any respite of the execution of the sentence, and may remit any fines, penalties, and forfeitures due or accrued to the Crown in Norfolk Island.

(a) State ad ng
of the Executive On the Norfolk Island to grant leases of land (See Gazette, 3 e p. Norfolk Island Act 1913 or any Minister or member for or on behalf of the Minister of State administering with the provisions of this section, been authorized the occupation or use of waste lands in Norfolk

Norfolk Island Act.

14. The revenue of Norfolk Island shall be available for defraying the expenditure thereof.

Revenue and
expenditure.
Cl. 1905, No. 9,
ss. 40, 47.
Tariff preferences
to goods
produced in
Norfolk Island.

15. Duties of Customs shall not be chargeable on goods imported into Australia from Norfolk Island if the goods—

- (a) are the produce or manufacture of Norfolk Island; and
- (b) are shipped direct from Norfolk Island to Australia; and
- (c) are not goods which if manufactured or produced in Australia would be subject to any Duty of Excise.

16. The manufacture, or, except in accordance with the provisions of the laws at present in force in Norfolk Island, the sale or supply of alcoholic liquor is prohibited.

Alcoholic liquor.

PROCLAMATION.^(a)

New South Wales,
to wit.

(L.S.)

G. STRICKLAND,
Governor.

By His Excellency Sir Gerald Strickland,
Count Della Catena, Knight Grand
Cross of the Most Distinguished Order
of Saint Michael and Saint George,
Governor of the State of New South
Wales and its Dependencies, in the
Commonwealth of Australia, and
Governor of Norfolk Island.

SIR GERALD STRICKLAND, Governor of New South Wales and its Dependencies, and Governor of Norfolk Island as aforesaid, do, in pursuance of the powers vested in me, declare that all laws heretofore in force in Norfolk Island are hereby repealed, and the following laws shall commence and come into force in the said Island from and after the publication of this Proclamation in the *Government Gazette* of the State of New South Wales:^(a)

Provided that notwithstanding such repeal—

- (a) all persons appointed or elected under any law so repealed and holding office at the time of the coming into force of the laws hereby enacted shall continue in office as if the said laws had been in force when they were appointed or elected, and they had been appointed or elected thereunder, and the said laws shall apply to them accordingly;
- (b) all commissions and licences issued and all rules, regulations, by-laws, proclamations, notices and notifications made, and all scales of costs or charges, and all forms prescribed, and all registrations in force under any law so repealed shall be deemed to

(a) Proclamation published in the *New South Wales Gazette*, No. 205 of 24th December, 1913.

Proclamation.

have been issued, made, and prescribed under the corresponding provisions of the laws hereby enacted.

Reference in any such documents or instruments to any of the provisions of any law so repealed shall be construed as references to the corresponding provisions of any law hereby enacted.

(c) all applications made under any law so repealed shall be deemed to have been made under the corresponding provisions of any law hereby enacted.

*2. The laws hereby enacted are arranged in the following manner:—

Interpretation	..	..	..	Law No. 1
Administration	..	..	..	Law No. 2
Birds Protection	..	..	..	Law No. 3
Brands and Marks	..	..	..	Law No. 4
Commons and Public Reserves	..	..	..	Law No. 5
(a) Constables (Special)	..	..	..	Law No. 6
(b) Constabulary	..	..	..	Law No. 7
Conveyancing	..	..	..	Law No. 8
Copyright	..	..	..	Law No. 9
Crown Lands	..	..	..	Law No. 10
Customs	..	..	..	Law No. 11
Dogs	..	..	..	Law No. 12
(c) Executive Council	..	..	..	Law No. 13
Fencing	..	..	..	Law No. 14
Health	..	..	..	Law No. 15
(d) Importation of Animals and Plants	..	..	..	Law No. 16
Infants' Maintenance and Protection	..	..	..	Law No. 17
Liquor Prohibition	..	..	..	Law No. 18
Marriage	..	..	..	Law No. 19
(e) Pasturage, Enclosure, and Noxious Weeds	..	..	..	Law No. 20
Pigs (Trespass)	..	..	..	Law No. 21
Prevention of Cruelty to Animals	..	..	..	Law No. 22
Public Roads and Public Notices	..	..	..	Law No. 23
(f) The Public School	..	..	..	Law No. 24
Registration of Births, Marriages, and Deaths	..	..	..	Law No. 25
(g) Royal Commissions	..	..	..	Law No. 26
Slaughtering	..	..	..	Law No. 27
Successions and Wills	..	..	..	Law No. 28
Surveys	..	..	..	Law No. 29
Timber Licences	..	..	..	Law No. 30
Titles to Land	..	..	..	Law No. 31
(h) Vagrancy	..	..	..	Law No. 32

(a) Repealed by No. 7 of 1931. (b) Repealed by No. 7 of 1931. (c) Repealed by No. 2 of 1925. (d) Repealed by No. 1 of 1915, and No. 1 of 1910. (e) Repealed by No. 2 of 1920. (f) Repealed by No. 3 of 1931. (g) Repealed by No. 2 of 1928. (h) Repealed by No. 2 of 1938.

* The laws which are enumerated above and which are set out in full in the Proclamation will be found in this volume.

Proclamation.

3. Subject to the laws hereby enacted and to any laws which may hereafter be made for Norfolk Island, and to any Order of His Majesty in Council, all laws and statutes in force in the realm of England on the 25th day of July, 1828, the date of the passing of the Act 9 Geo. IV, c. 83, shall be applied in the administration of justice in Norfolk Island, so far as the same can be applied within the said Island.

Given under my Hand and the Seal of Norfolk Island at Sydney, this twenty-third day of December, in the year of Our Lord One thousand nine hundred and thirteen and in the fourth year of His Majesty's reign.

By His Excellency's Command,

W. A. HOLMAN.

GOD SAVE THE KING!

ATTACHMENT C

PREAMBLE TO THE NORFOLK ISLAND ACT ENACTED IN 1979 BY THE COMMONWEALTH PARLIAMENT OF AUSTRALIA

WHEREAS by an Act of the Parliament of the United Kingdom, made and passed in the sixth and seventh years of the reign of Her Majesty Queen Victoria intituled “An Act to amend so much of an Act of the last Session, for the Government of New South Wales and Van Diemen’s Land, as relates to Norfolk Island,” it was, amongst other things, enacted that it should be lawful for Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, to sever Norfolk Island from the Government of New South Wales and to annex it to the Government and Colony of Van Diemen’s Land:

AND WHEREAS Her Majesty Queen Victoria, in exercise of the powers vested in Her by the said Act, by a Commission under the Great Seal of the United Kingdom bearing date the twenty fourth day of October, 1843, appointed that from and after the twenty ninth day of September, 1844, Norfolk Island should be severed from the Government of New South Wales and annexed to the Government and Colony of Van Diemen’s Land:

AND WHEREAS by an Act of the Parliament of the United Kingdom, called the Australian Waste Lands Act 1855, it was, amongst other things, provided that it should be lawful for Her Majesty at any time, by Order in Council, to separate Norfolk Island from the Colony of Van Diemen’s Land and to make such provision for the Government of Norfolk Island as might seem expedient:

AND WHEREAS on 8 June 1856 persons who had previously inhabited Pitcairn Island settled on Norfolk Island:

AND WHEREAS by an Order in Council dated the twenty fourth day of June, 1856, made by Her Majesty in pursuance of the last mentioned Act, it was ordered and declared, amongst other things, that from and after the date of the proclamation of the Order in New South Wales Norfolk Island should be thereby separated from the said Colony of Van Diemen’s Land (now called Tasmania) and that from that date all power, authority, and jurisdiction of the Governor, Legislature, Courts of Justice, and Magistrates of Tasmania over Norfolk Island should cease and determine, and that from the said date Norfolk Island should be a distinct and separate Settlement, the affairs of which should until further Order in that behalf by Her Majesty be administered by a Governor to be for that purpose appointed by Her Majesty with the advice and consent of Her Privy Council: and it was thereby further ordered that the Governor and Commander in Chief for the time being of the Colony of New

South Wales should be, and he thereby was, constituted Governor of Norfolk Island, with the powers and authorities in the said Order mentioned:

AND WHEREAS the said Order in Council was proclaimed in New South Wales on 1 November 1856:

AND WHEREAS by an Order in Council dated the fifteenth day of January, 1897, made in pursuance of the said last mentioned Act, Her Majesty, after reciting that it was expedient that other provision should be made for the government of Norfolk Island, and that, in prospect of the future annexation of Norfolk Island to the Colony of New South Wales or to any Federal body of which that Colony might thereafter form part, in the meantime the affairs of Norfolk Island should be administered by the Governor of New South Wales as therein provided, was pleased to revoke the said Order in Council of the twenty fourth day of June, One thousand eight hundred and fifty six, and to order that the affairs of Norfolk Island should thenceforth, and until further Order should be made in that behalf by Her Majesty, be administered by the Governor and Commander in Chief for the time being of the Colony of New South Wales and its Dependencies:

AND WHEREAS the said Order in Council was published in the New South Wales Government Gazette on 19 March 1897, and took effect at that date:

AND WHEREAS by an Order in Council dated the eighteenth day of October, One thousand nine hundred, made in pursuance of the said last mentioned Act, Her Majesty was pleased to revoke the said Order in Council of the fifteenth day of January, One thousand eight hundred and ninety seven, and to order that the affairs of Norfolk Island should thenceforth, and until further Order should be made in that behalf by Her Majesty, be administered by the Governor for the time being of the State of New South Wales and its Dependencies:

AND WHEREAS the said Order in Council was published in the New South Wales Government Gazette on 1 January 1901, and took effect at that date:

AND WHEREAS by an Order in Council dated the 30th day of March, 1914, His Majesty King George V, by virtue and in exercise of the power in that behalf by the said last mentioned Act or otherwise in His Majesty vested, after reciting that the Parliament had passed an Act No. 15 of 1913, entitled "An Act to provide for the acceptance of Norfolk Island as a territory under the authority of the Commonwealth, and for the government thereof" and that it was expedient that the said Order in Council of 18th of October, 1900, should be revoked and that Norfolk Island should be placed under the authority of the

Commonwealth of Australia, was pleased to revoke the said Order in Council of 18th of October, 1900, and to order that Norfolk Island be placed under the authority of the Commonwealth of Australia:

AND WHEREAS the said Order in Council was published in the Gazette on 17 June 1914, and took effect from 1 July 1914, being the date of commencement of the Norfolk Island Act 1913:

AND WHEREAS Norfolk Island was, by the Norfolk Island Act 1913, declared to be accepted by the Commonwealth as a Territory under the authority of the Commonwealth:

AND WHEREAS Norfolk Island has been governed by the Commonwealth initially under the provisions of the Norfolk Island Act 1913, and subsequently under the provisions of the Norfolk Island Act 1957:

AND WHEREAS the residents of Norfolk Island include descendants of the settlers from Pitcairn Island:

AND WHEREAS the Parliament recognises the special relationship of the said descendants with Norfolk Island and their desire to preserve their traditions and culture:

AND WHEREAS the Parliament considers it to be desirable and to be the wish of the people of Norfolk Island that Norfolk Island achieve, over a period of time, internal self-government as a Territory under the authority of the Commonwealth and, to that end, to provide, among other things, for the establishment of a representative Legislative Assembly and of other separate political and administrative institutions on Norfolk Island:

AND WHEREAS the Parliament intends that within a period of 5 years after the coming into operation of this Act consideration will be given to extending the powers conferred by or under this Act on the Legislative Assembly and the other political and administrative institutions of Norfolk Island, and that provision be made in this Act to enable the results of such consideration to be implemented:

BE IT THEREFORE ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows



THE COMMONWEALTH OF AUSTRALIA AND NORFOLK ISLAND: BRIDGING THE DIVIDE

The issue of bridging the divide between the Commonwealth of Australia and the Territory of Norfolk Island is one that has yet to be resolved, leaving unanswered questions regarding the territory's future status, writes the island's Minister for Cultural Heritage and Community Services.

Ms Robin Adams, MLA

Ms Adams is currently the Minister for Cultural Heritage and Community Services in the Norfolk Island Government, having been appointed on 13 March 2013. She is a Norfolk Islander of Pitcairn Descent and an Australian citizen.

Prior to her current role, Ms Adams was Speaker of the 13th Norfolk Island Legislative Assembly from March 2010 to December 2012.



Ms Robin Adams, MLA

Emeritus Professor Maeve O'Collins¹ presented a paper in 2004 at the Australian National University Emeritus Faculty Lecture Series, titled "Norfolk Island and the Commonwealth of Australia: Continuing the Uneasy Relationship?"² In presenting her paper she stated:

"The background to this talk is my research into the socio-political context of the final transfer in 1914

of the authority for Norfolk Island from Britain to the Commonwealth of Australia. Since then Norfolk Island's special status and unique form of governance have often been seen as 'unfinished business.' This has been reflected in a number of reports and commissions of inquiry, and in the intermittent attempts made by successive Australian governments to enact legislation to bring Norfolk Island in line with other Australian territories. Currently the debate is continuing, as Norfolk Islanders try to maintain their cultural and historical identity. The ambiguous relationship between Norfolk Island and Australia may also be seen as a microcosm of Australia's current relations with other small independent nations in the South Pacific.

"As a mainland Australian, who has visited Norfolk Island on several occasions, and conducted archival research into the history of the political and administrative relationship

between Australia and Norfolk Island, it is sobering to note that the lessons of history are so difficult to learn. While many of the recommendations³ are eminently reasonable, there is a need to establish a less adversarial mechanism for ongoing consultation between the Commonwealth and Norfolk Island governments.

"The continuing challenge is to devise and maintain open processes of dialogue and consultation between the Parliament of Australia and the Norfolk Island Legislative Assembly. Ensuring that the Norfolk Island community is directly engaged in the process may also serve to establish a sense of ownership and responsibility. If the process of implementation included a two-way mechanism for ongoing consultation, aimed at achieving acceptance and endorsement, as well as any mutually acceptable modifications, both Norfolk Island and Australia would be the winners."



Map of the Oceania region¹¹

Professor O'Collins' lecture raised the ongoing question of, 'how do we, once and for all, bridge the divide and arrive at a place where the Commonwealth of Australia and the Territory of Norfolk Island are on the same platform about the Island's future status?'

The divide

The belief that has been handed down through generations of the Pitcairn descendants was that Queen Victoria "gifted" Norfolk Island to the Pitcairners, and that Norfolk Island was theirs to occupy on the same basis as they had done with Pitcairn Island. However there were no apparent records that supported this belief. British Consul of the Society Islands, B. Toup Nicolas, wrote to the Pitcairn Islanders on 5 July 1854 on behalf of his 'Lordship's Despatch, No. 4' dated December 16, 1853 where he wrote:

"Norfolk Island cannot be 'ceded' to the Pitcairn Islanders, but that grants will be made of allotments of land to the different families, and I am desired further to make known to you that is not at present intended to allow any other class of settlers to reside or occupy land on the island".

His view was reinforced in the despatch from Governor General Sir William Denison to the Right Hon. Lord John Russell on 29 December 1855, in which Denison stated:

"It would in my opinion be advisable, at all events for the present, to prohibit all grants or sales of land to others than the race now about to inhabit this small island, and to hold out as little encouragement as possible to the domestication of other races, be they white or coloured, among them, until the effect of the removal of and the altered circumstances in which they are about to be placed can be clearly seen."

It could be argued that these early views of the British Crown's representatives demonstrated a clear intention prior to the removal of The Pitcairners to Norfolk Island, in that they were to have "sovereignty" over their own affairs to the exclusion of all others.

However, history showed that this intent was not to become a reality and the Pitcairners who arrived on Norfolk Island in 1856 as a fully self-governing ethnic community, lost their self-governing status, along with the laws they brought with them, including the right of women to vote, just 58

years after their arrival on the island, when Norfolk Island was declared to be accepted as a Territory under the authority of the Commonwealth of Australia from 1 July 1914.

History also shows that a measure of self-government was restored to the Island with the passage of the Norfolk Island Act 1979. However, with the enactment of the Territories Law Reform Act 30 years later in 2010, the Island's return down the road to internal self-government in 1979 could be viewed somewhat as a "pyrrhic victory".

There have been many events in the last 100 years that have widened the divide. These include:

- Norfolk Island not being inscribed with the United Nations as a non-self-governing territory when Nauru and Papua and New Guinea were inscribed prior to the 1970s;⁴
- Disenfranchisement in 2004 of Norfolk Islanders and other long-term residents from voting or standing for the Legislative Assembly unless they are Australian citizens;⁵ and
- The diminution of the Island's self-governing status with the passage of the Territories Law Reform Act 2010.⁶

- Articles about Norfolk Island and its governance have appeared regularly in *The Parliamentarian* since 2000 giving a more in-depth overview of "the Divide".^{7,8,9}

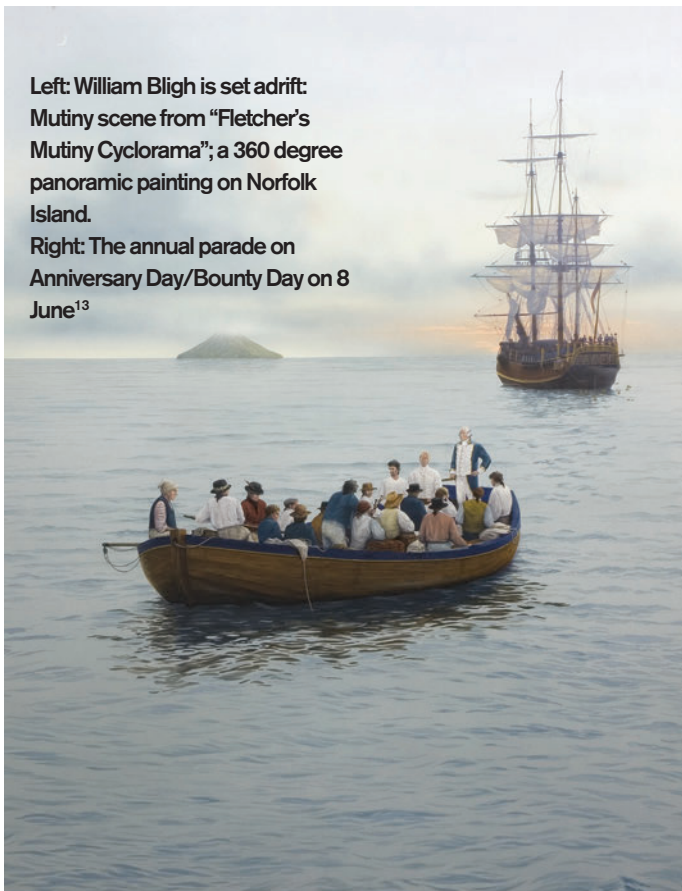
"Norfolk Island walks between the worlds" were the opening remarks I made as Speaker of the Legislative Assembly of Norfolk Island when asked to chair a joint meeting of the Pacific Region and the Australia Region Management Committees of the CPA, held during the 43rd Australasian and Pacific Presiding Officers and Clerks Conference in the Solomon Islands in July 2012.¹⁰

"We walk in Polynesia and the Pacific with our culture, heritage and traditions"

Norfolk's role as Chairperson aligns with the view of Professor Richard Herr and Dr Andrew Bergin in their report "Our Near and Abroad – Australia and Pacific Islands' regionalism" that "Norfolk Islanders of Polynesian ancestry can serve as a bridge from Australia into the region." This view was also supported by the former Australian CPA Regional Secretary who visited in 2012, who recognized the opportunity to use Norfolk Island as a bridge between the Australian and Pacific Regions of the CPA; and Australia and the Pacific more broadly.

Walking in Polynesia and the Pacific began with the Mutiny on the *Bounty* in 1789 – a tale of conspiracy, adventure and romance. It is a tale that, following the mutiny, sees William Bligh set adrift with 18 men in a longboat to find his way back to England, while Fletcher Christian and the remaining crew of mutineers, with women and men from Tahiti, found their way in January 1790 to Pitcairn Island. Here they were hidden away from the world until the community consisting of John Adams and 34 women and children of Tahitian and mixed blood were discovered on 8 February 1808 by Captain Folger of the "Topaz". The community has been described by one author as the "world's most perfect and pious race". They were the first to give

RELATIONSHIP MATTERS: NORFOLK ISLAND AND AUSTRALIA



Left: William Bligh is set adrift: Mutiny scene from "Fletcher's Mutiny Cyclorama"; a 360 degree panoramic painting on Norfolk Island.

Right: The annual parade on Anniversary Day/Bounty Day on 8 June¹³



women the vote in 1838 and the first to make education compulsory. The surviving community, who henceforth became known to the world as the Pitcairners, eventually outgrew Pitcairn and in 1855 Queen Victoria offered them Norfolk Island as their new homeland. The Pitcairners – an ethnic community totalling 194 men, women and children – arrived in their new homeland on 8 June 1856.¹² Every year on 8 June, the Islanders celebrate the arrival of The Pitcairners on Norfolk – called Anniversary Day or Bounty Day. It includes a re-enacting of the landing at Kingston jetty, followed by the community en masse in Bounty Day costume walking from the jetty to the cemetery, acknowledging the ancestors before gathering as a community for a picnic lunch.

The Islanders on Pitcairn continue to be acknowledged in Norfolk's Immigration legislation and over the years there have been many pilgrimages between Norfolk Island and Pitcairn to cement our historical connections; the most recent being

February 2014 with nine "Norfolk" travelling to Pitcairn for a 10 day visit.

Norfolk Island also has a very strong history with New Zealand. History shows that New Zealand sought to "have ownership" of Norfolk Island as the island was seen as a possible station in a proposed Pacific cable network. In a letter to Chamberlain dated 26 May, the New Zealand Governor pointed out that:

"I am advised that, as far as my Ministers can ascertain, if any change is to take place in the government of Norfolk Island, the Islanders, while protesting against any change, would prefer to come under the control of New Zealand rather than that of New South Wales".¹⁴

On 19 March 2014, almost 158 years after the arrival of the Pitcairners on Norfolk Island, the Norfolk Island Cultural Strategic Plan 2014-2018 prepared for the Island's Council of Elders was tabled in the Norfolk Island Parliament. Norfolk Island has evolved into a wonderful tapestry of people. Though it is a global community of local residents and people from all

over the world, it is fair to say that our Island Elders still hold the view that Norfolk Island is first and foremost the homeland of the descendants of the settlers from Pitcairn Island who in 1856 were moved as a community by the authority of Queen Victoria from Pitcairn Island to Norfolk Island. They were a people that came as a fully self-governing, religious ethnic community with its own laws, language, culture and traditions. Tabled in the Norfolk Island Parliament was a historic occasion and a valuable step in achieving the recognition of the special relationship of the said descendants with Norfolk, and their desire to preserve their traditions and culture.

Norfolk's place in the Pacific includes membership of the South Pacific Games Council and the Pacific Arts Council. Norfolk Island was admitted as a member of the South Pacific Games Council in 1979. The idea of holding the South Pacific Games originated with Dr A.H. Sahu Khan who was one of Fiji's representatives at a meeting of the South Pacific Commission held at Rabaul in 1959. The idea was adopted and led to a meeting of nine Territories, held in Noumea in March 1961. Fiji was awarded the honour of hosting the very first Games, and in 1962, the South Pacific Commission

founded the South Pacific Games Council. In the 40 years since its inception, the Games have been held in 12 countries and territories within the Pacific region. The South Pacific Games, today known as the "Pacific Games" were established to create "bonds of kindred friendship and brotherhood amongst people of the countries of the Pacific region through sporting exchange without any distinctions as to race, religion or politics".

Since 1981 the region has also run the South Pacific Mini Games (today called the Pacific Mini Games) and in December 2001 Norfolk Island successfully hosted the VI South Pacific Mini Games with 18 countries/territories participating in the 10 sport programme, with over 800 athletes and officials attending.

The Festival of Pacific Arts (or Pacific Arts Festival)

The Festival of Pacific Arts (or Pacific Arts Festival) is a travelling festival hosted every four years by a different country in Oceania. It was conceived by the Secretariat of the Pacific Community (formerly the South Pacific Commission) as a means to stem erosion of traditional cultural practices by sharing and exchanging culture at each festival. Norfolk Island, which was first represented at the Pacific Arts Festival at its third Festival held in Papua New Guinea in 1980,



**The Cenotaph in
Norfolk Island¹⁶**

also has a seat on the Pacific Arts Council.

The Pacific community

While Norfolk Island sits on the Council of Pacific Arts and participates in the Festival of Pacific Arts it is not permitted to participate as a member of the Secretariat of the Pacific Community (SPC).

The South Pacific Commission, as it was formerly known, was founded in Australia in 1947 by the six nations that then administered territories in the Pacific.¹⁵ They established the SPC to restore stability to a region after the turbulence of the Second World War, and to assist in administering their territories and benefitting the people of the region.

There are many benefits open to Norfolk Island from a non-political organization such as the SPC which develops and implements a range of programmes to assist Pacific Island countries and territories in their development. The programmes range across public health, fisheries, education, training and human development, economic development, statistics for development, applied geosciences and technology and climate change.

It is to the mutual benefit both of Norfolk Island and the

Commonwealth of Australia were Norfolk Island permitted to participate as a member of the SPC in its own right.

“And we walk with Australia to whom we owe our loyalty”

There is little doubt that the people of Norfolk Island have always valued their close association with Australia. This is clearly demonstrated when the Norfolk Island community comes together at The Cenotaph on ANZAC Day each year to honour the Norfolk Islanders who fought for Australia in the First and Second World Wars, and in Vietnam and in Korea. The sacrifice made for Australia by so many from this small isolated community in these wars should never be understated.

Building bridges to close the divide

It is time to build bridges and mend fences. It is time for the Government of Australia and the Legislative Assembly of Norfolk Island to return to the negotiation table with mutual respect for one another, and in their deliberations on our Island's future. Constructive respectful dialogue must be the basis of any discussion on island issues, including governance, finance and environmental sustainability.¹⁷

It is also important that dialogue commence between the Commonwealth of Australia and Norfolk Island on a referendum or plebiscite being conducted to ascertain the wishes of the Norfolk Island community. It should in particular address the wishes of the descendants of the original settlers from Pitcairn Island who settled on the island in 1856, on how they wish to walk into the future with the Commonwealth of Australia. Conduct of the referendum/plebiscite will require independent oversight to ensure there is an appropriate process to gain an unbiased outcome. Whether the United Nations would provide that independent oversight and the desired outcome is another discussion.

To conclude, the words of Professor O' Collins add a fitting end to the discussion:

“The continuing challenge is to devise and maintain open processes of dialogue and consultation between the Parliament of Australia and the Norfolk Island Legislative Assembly. Ensuring that the Norfolk Island community is directly engaged in the process may also serve to establish a sense of ownership and responsibility. If the process included a two-way mechanism for ongoing consultation,

aimed at achieving acceptance and endorsement, as well as any mutually acceptable modifications, both Norfolk Island and Australia would be the winners.”

If Professor O' Collins' statement became a reality, it would consequently help bridge the gap once and for all between the Commonwealth of Australia and Norfolk Island.

Endnotes

1. http://www.anu.edu.au/emeritus/members/Maev_O_Collins.html
2. <http://www.anu.edu/emeritus/minutes/>
3. 2003 Report on governance and financial sustainability on Norfolk Island (Quis custodiet ipsos custodiet?) of the Parliament of the Commonwealth of Australia's Joint Standing Committee on the National Capital and External Territories.
4. United Nations Association of Australia – publication titled Norfolk Island, Australia and the UN, Report to the UNAA Federal Executive by John Bulbeck,
5. Norfolk Island Amendment Act, No. 6 of 2004
6. Territories Law Reform Act 2010, No. 139 of 2010.
7. *The Parliamentarian* 2008/Issue Four. “Norfolk Island's self-government under threat again”
8. *The Parliamentarian* 2006/Issue Two. “Democracy at risk?”
9. *The Parliamentarian* 2012 Issue Three. “Governance and Democracy “Norfolk Island style” At risk again?”
10. All Australian Parliaments were represented; as were the Pacific parliaments of the Autonomous Region of Bougainville, Cook Islands, Kiribati, Nauru, New Zealand, Samoa, Tuvalu and the Republic of Vanuatu.
11. Bella Online: Oceania – What is Oceania? – Australia?
12. *The Parliamentarian* 2012 Issue Three. “Norfolk Island and the Isle of Man strengthen historical ties: From Mutiny to Unity.”
13. (Photo: The annual parade on Anniversary Day/Bounty Day on 8 June)
14. “A Federation in these Seas” Alan Kerr
15. Australia, France, New Zealand, Netherlands, United Kingdom, and the United States of America
16. Photo of the Cenotaph
17. *The Parliamentarian* 2010 Issue Two: “Governance and Democracy”