



COMMONWEALTH OF AUSTRALIA.

Home and Territories Department.

FILE OF PAPERS.

SUBJECT: Land at Norfolk Island.

Ownership of:-

Norfolk Is. "L."

MINUTES NOT TO BE WRITTEN ON THIS COVER.

Registers and indices
Specially

JM

7
905

Secretary This copy is very helpful
for general purposes, but
The point on which
the whole thing seems to
hinge is whether the original
arrangement in regard to ownership
of the Ild is as contended by the
old Islanders. An examination of
the original documents should definitely
settle the point. The facts to
people in charge seem to have been
grown up as a local custom from time
of arrival of the Pitcairners about
the 1854

Write to Pr. Dept.
asking that papers be
obtained from N.W. Govt.

[Handwritten signature]

Copy of Mr B. Latini's
report prepared by the
Secretary & C.C.
9 Dec

HOME AND TERRITORIES DEPARTMENT. 24744



No.

MEMORANDUM:

Ownership of Land at Norfolk Island.

With reference to the attached memorandum by the Chief Clerk, I desire to report that the early papers in connection with the transfer of the Pitcairn Islanders to Norfolk Island are with the Government of New South Wales.

In 1905 the Governor of New South Wales instructed Mr. Wm. Houston, Deputy Administrator of Norfolk Island Affairs, and Mr. J. L. Watkins, Parliamentary Draftsman of New South Wales, to furnish a report on various matters connected with Norfolk Island, amongst which was the question of the "Unauthorised occupation of Crown Lands". The attached extract from the Report issued by those gentlemen gives information with regard to the conditions under which grants of land were made to the Pitcairn Islanders.

It will be observed that Lord Loftus definitely discontinued the issue of free grants and that it was contended that Lord Hampden's instruction of the 6th January, 1896, to the Chief Magistrate of Norfolk Island, had the effect of terminating the issue of "conditional free grants" under the so-called "Carrington System".

The Norfolk Islanders did not realize the effect and importance of the decisions given by Lord Loftus and Lord Hampden, and they continued to enter upon areas of land thinking that when they had effected the necessary improvements the blocks would be granted to them in fee-simple. Land matters on the Island became so confused that in 1903 Mr. Alexander Oliver, President of the Land Appeal Court of New South Wales, was appointed a Commissioner to enquire into the "Unauthorized occupation of Crown Lands". At the time of this enquiry there were 23 cases of alleged unauthorized occupation of land. Decisions in regard to some of these cases were given by Mr. Oliver; the remaining cases were dealt with by Messrs. Houston and Watkins, and finally by Mr. M. V. Murphy.

As mentioned by Mr. Allan, the old Pitcairn Islanders remaining at Norfolk Island, still claim that they are entitled to take up land under the "Carrington System", but their claim has not been recognised by either the New South Wales Government or this Government.

Land can only be taken up in accordance with the Crown Lands Law 1913.

1/2/24.

Extract from Report of Commissioners Wm. Houston,
Deputy Administrator of Norfolk Island Affairs, and
John Leo Watkins, Parliamentary Draftsman, New South
Wales, 17th March 1905.

"4. UNAUTHORISED OCCUPATION OF CROWN LANDS.

"It appears that, prior to 1884, free grants were issued by the Governor to the descendants of the Pitcairn Islanders. These grants were only issued on marriage, in pursuance of a policy initiated on the first landing of the Pitcairners on Norfolk Island, by which each family was provided with land on which to settle and make a home. In 1884, Lord Augustus Loftus put a stop to the issue of these free grants.

On 2nd May, 1888, Lord Carrington presided at a public meeting on the Island at which a resolution was passed that Conditional Grants should be made to persons "who would be entitled to land on marriage," the conditions to be settled by the "House" and approved by the Governor. On 10th May, 1888, the conditions were, by resolution of a public meeting, stated to be improvements to the extent of £2 per acre to be effected within five years, after permission was given to occupy the land, such improvements to consist of "buildings, fences, dams, fruit-trees, or any other improvements of an approved permanent character." The resolution did not state who was to give the permission to occupy the land or to approve of the improvements. There is no evidence of any formal approval by the Governor of either of these resolutions. The resolutions cannot be regarded as laws; they only amount to statements of the conditions on which free grants would in the future be issued.

In 1893 the Private Secretary to Lord Jersey, in a letter to the Chief Magistrate, which is quoted at page 19 of the Commissioner's Report, states that His Excellency considers that persons who had occupied and improved their land under the belief that they would obtain grants if certain conditions were fulfilled, and who had complied with the conditions, may be held to be fairly entitled to their deeds of grant, whether a promise was given specifically or not. He adds: "As His Excellency is resigning his office, it must be understood that he can only confirm in the possession of their land those who have carried out the said conditions, and that he must leave the question as to how the Crown lands are to be dealt with in future to his successor. You will take special care that the conditions have been carried out in each case before sending in the names."

On the 6th January, 1896, the Private Secretary to Lord Hampden, in a letter to the Chief Magistrate, states that His Excellency will not make any further "free grants" of land. The term "free grants" must be taken to include conditional free grants under the so-called "Carrington System" the unconditional free grants having been put a stop to by Lord Augustus Loftus in 1884.

Between 1888 and 1896 it was the practice of the Chief Magistrate to issue permits to occupy and improve land. These permits purport to be issued under the "Carrington System" but inasmuch as they were not submitted to or approved by the Governor for the time being, they in no way bind him or his successors to make free grants. They may, however, be used as evidence of intention to take advantage of the "Carrington System."

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In February, 1896, Lord Hampden commissioned the Hon. J. H. Carruthers and Mr. C. J. Oliver to make inquiries into claims to the ownership of land, and they reported that in some cases the conditions of improvement had not been fulfilled. But at that time the five years allowed for making the improvements had not elapsed, and apparently no steps were taken to give effect to this part of the Report.

On 14th November, 1896, the previous laws of the Island were repealed with the usual provision that such repeal should not affect the past operation of the repealed laws or any rights acquired thereunder, and certain of the claims, and among them the claim of Mr. O. M. Quintal, are based on this saving clause. Such claims assume that the resolutions of 1888 had the effect of laws and were binding on the Governor. But the circumstances under which those resolutions were passed, and the absence of the formal approval of the Governor, appear to negative such an assumption.

In 1900, Lord Beauchamp visited Norfolk Island, and, at a meeting of the Islanders at which His Excellency presided, a promise was made to send Mr. Alexander Oliver to the Island to report upon the land question and other matters. At that meeting, Mr. O. M. Quintal asked that the persons who had taken up land under the "Carrington System" should be allowed time to bring the value of improvements up to £2 per acre, "the extension of time might be for, say, twelve months or longer."

From the above statement it will be seen that it was clearly understood that the condition of the issue of a grant was that improvements to the value of £2 per acre should be placed on the land within five years, and whatever doubt there may once have been among holders of "permits" as to the validity of claims under the so-called "Carrington System" and whatever statements may have been made as to people making improvements at their own risk, the promise of Lord Beauchamp to have inquiry made into the claims, amounted to an invitation to those holders to complete their improvements and make their claims."

HOME AND TERRITORIES DEPARTMENT.



No.

MEMORANDUM:

Mr. John Allan of the firm of Allan & Co., Music Warehousemen, who recently spent several months at Norfolk Island, called at the Department recently and stated that a great deal of feeling exists amongst the Islanders at the prospect of lands now being surveyed being made available for outsiders.

Mr. Allan says that many of the old men on the Island frequently discussed this matter with him and stated that at the time they were placed on the Island they were told that it was given to them for their use and that of their descendants for all time, and that they consider that any action taken to place other people on the vacant land would be a distinct breach of the arrangement made at the time of their transfer to Norfolk Island.

(1) | Mr. Allan further stated that the Islanders complained of the termination, some time ago, of a local arrangement under which the sons of Islanders, on their marriage, received a grant of 20 acres of land.

Mr. Allan said that he did not know what authority there was for such an arrangement, but he merely mentioned it for what it was worth.

(2) | I am not aware of any justification for the belief on the part of the Islanders that they and their descendants were to be allowed the sole use of the Island, but the original documents relating to the transfer of the Mutineers from the Bounty might be examined with a view to testing the matter.

21/1/24.

(1) - Have we any information re the local arrangement referred to?

(2) - Where are the documents?

26.1.24

Mr. C. Arnold

I presume that any papers on this subject will be with Govt of N.S.W. If Dept. ask for them.

27/1