



1970-71

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

THIRTY-SEVENTH REPORT

from the

STANDING COMMITTEE

on

REGULATIONS AND ORDINANCES

relating to

Norfolk Island Ordinances

PERSONNEL OF COMMITTEE

Chairman:

Senator I.A.C.Wood

Members:

Senator Cavanagh
Senator Devitt
Senator Durack
Senator Webster
Senator Wheeldon
Senator Withers

FUNCTIONS OF THE COMMITTEE - Since 1932, when the Committee was first established, the principle has been followed that the functions of the Committee are to scrutinize regulations and ordinances to ascertain -

- (a) that they are in accordance with the Statute;
- (b) that they do not trespass unduly on personal rights and liberties;
- (c) that they do not unduly make the rights and liberties of citizens dependent upon administrative rather than judicial decisions; and
- (d) that they are concerned with administrative detail and do not amount to substantive legislation which should be a matter for parliamentary enactment.

SENATE STANDING COMMITTEE ON REGULATIONS AND ORDINANCES
THIRTY-SEVENTH REPORT

The Senate Standing Committee on Regulations and Ordinances has the honour to present its Thirty-seventh Report to the Senate.

2. The Committee has, over a period of time, been concerned about provisions in Norfolk Island Ordinances which to a degree have offended against the Committee's guiding principles. The necessity for these provisions has been the subject of discussions with the Minister for External Territories, his officers and, on one occasion, members of the Norfolk Island Council.

3. In discussions, the Minister has always stressed the uniqueness of the Island and the problems of the people living on it. The Minister has particularly drawn attention to the work of the freely elected Norfolk Island Council, the statutory provisions requiring consultation with the Council in the making of Ordinances, and to the fact that, as this Council represents the views of Island residents, it would be only in an extreme case that he would act against Council's advice.

For these reasons, the Committee has, in most cases, also deferred to the expressed wishes of the Norfolk Island Council.

4. Being mindful of its responsibility to the Senate, however, the Committee has for some time been aware of the need for a visit to Norfolk Island in order that members may acquaint themselves with the situation there, meet the people, and to get to know the Norfolk Island Councillors and their work.

The Minister has always strongly supported such a proposal.

5. Pursuant to the authority given by resolution of the Senate on 7 May 1971, the Committee met on Norfolk Island on 6, 7 and 9 June and took evidence from the Norfolk Island Council and eleven witnesses. Members also had the privilege of joining with the Island residents in the celebration of "Bounty Day" on 8 June 1971. This was a very historic and memorable occasion.

6. Committee members were impressed with the uniqueness of life on Norfolk Island. The Island community is living a way of life which is remote from the normal Twentieth-Century mode of living, and is endeavouring to continue to do so. The people of the Island, of whom forty per cent are descended from the mutineers from H.M.S. Bounty who were transferred to Norfolk from Pitcairn Island in 1856, are proud of their heritage and loyal to the traditions of their forebears.

There was, on the Island, a desire to preserve the identity of the Pitcairn descendants and the way of life that they believe in. The Committee, believing this to be the wish of the majority of Islanders, will make every endeavour to support this objective.

7. During the taking of evidence, members of the Norfolk Island Council drew the Committee's attention to the position of Councillors who as the elected representatives of the

people had, in their opinion, one channel only through which to voice their opinions, that is through their Chairman, the Administrator, to the Minister for External Territories. It was pointed out that, as all communications between the Administrator and the Minister are privileged, the situation could lead to a feeling that Council views may not be presented in their true spirit and that appeals against Ministerial decisions could be dismissed without full consideration.

On an Island with only approximately 1400 inhabitants, the position of the Administrator as servant of the Minister and Chairman of the elected Council is a very delicate one.

8. Senators did point out to Councillors and residents that, as they were governed by an Act of the Federal Parliament, they had a right to submit views to Senators and Members of the House of Representatives at any time. Islanders expressed surprise; they held the view that as they were not directly represented in the Federal Parliament they had no such right.

9. As a result of the visit to Norfolk Island a closer link has been forged between Senators and the Norfolk Island people which will be of lasting benefit to both the Norfolk Islanders and the Parliament.

10. Following consideration of the evidence heard on Norfolk Island the Committee has concluded -

- 1) That there is a need for a closer relationship between the Federal Parliament and Norfolk Island. To achieve this, it is suggested that the appropriate Legislative and General Purpose Standing Committee of the Senate be given a responsibility in the matter of the Australian Territories.
- 2) That there exists on Norfolk Island special circumstances which need to be taken into account by the Committee in its scrutiny of Ordinances. To this end, the following resolution has been agreed to -

That in its consideration of Norfolk Island Ordinances, the Committee will take into account the desire of the descendants of the Pitcairn Islanders to preserve their environment, history, culture and traditions.

IAN WOOD
Chairman

Regulations and Ordinances
Committee Room,
Thursday, 26 August 1971.