

TOWARDS SELF-DETERMINATION: A SELF-GOVERNMENT DOCUMENT FOR PITCAIRN

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Pitcairn reste un de ces territoires qui de part le monde n'ont pas encore pu accéder à l'indépendance. La Charte des Nations Unies précise que les Etats membres des Nations unies, qui sont responsables de l'administration de ces territoires, acceptent de promouvoir le bien-être de leurs habitants et s'engagent à mettre en oeuvre les mesures tendant à assurer l'organisation d'un gouvernement autonome. Les Nations Unies espèrent également que ces territoires non indépendants, aient accédé à l'indépendance au plus tard à la fin de la Seconde Décennie internationale de l'Elimination du Colonialisme, prévue pour 2010. Cet article s'intéresse au régime en vigueur à Pitcairn en tant que territoire d'outre-mer de la Grande-Bretagne et à la centralisation de ses structures institutionnelles actuelles. Par ailleurs, cet article préconise aussi différentes mesures qui pourraient être envisagées pour favoriser la mise en place d'un gouvernement autonome à Pitcairn.

Pitcairn Island, an overseas territory of the United Kingdom has been prominent in the media in recent years.¹ The media coverage has drawn attention to the tiny, isolated community and highlighted the fact that Pitcairn and its surrounding islands, Henderson, Ducie and Oeno is a non-self-governing territory at international law and the only one under the administration of the United

* This is an edited version of "The End of an Empire: Developing a Draft Constitution for Pitcairn Island" presented in 2004 in fulfilment of the requirements of the LLB(Hons) degree at Victoria University of Wellington.

1 See for example Tim Watkin "The Pitcairn Problem" (24-30 April 2004) *The Listener* New Zealand <www.listener.co.nz> (last accessed 30 July 2004); Tim Watkin "Trials of a faraway Island" (10 May 2004) *The New Zealand Herald* Auckland <www.nzherald.co.nz> (last accessed 30 July 2004); Jan Corbett and Tony Stickley "End of a legend as Pitcairn Island meets the modern law" (30 June 2004) *New Zealand Herald* Auckland <www.nzherald.co.nz> (last accessed 9 August 2004).

*Kingdom in the Pacific.*² *The United Nations (UN) Charter states that member States responsible for the administration of non-self-governing territories accept an obligation to promote the well-being of the territories' inhabitants and they must develop self-government.*³ *The UN hopes that all non-self-governing territories will have developed self-government by the end of the Second International Decade for the Eradication of Colonialism in 2010.*⁴ *This paper discusses the constitutional structures and centralised power currently in place in Pitcairn and discusses one approach that could be used to develop self-government.*

I INTRODUCTION

The story of the HMS *Bounty* and the settlement of nine mutineers and their 19 Tahitian companions on Pitcairn in 1790 is well known and has been the subject of many books and films.⁵ The Supreme Court of Pitcairn stated in *The Queen v 7 Named Accused* that Pitcairn, "a settlement under British protection became with the support of its people, a British dependency or territory" and therefore is under the sovereignty of the Crown.⁶ The territory is unique due to its isolation and population of about 50. Therefore any move towards self-government faces many practical issues that would need to be resolved in order for self-government to be achieved. These issues⁷ are not the focus of this paper, however they do to a certain extent have an affect on the self-government model presented in this paper.⁸

The constitutional laws currently in place in Pitcairn have been collated and listed together in Appendix 1. The current laws do not provide a self-government document and the purpose of this paper is to consider how this document could evolve into a realistic self-government model. This paper puts forward a document, based on the existing constitutional structures in Pitcairn, that could

2 UN Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples "Pitcairn Working Paper prepared by the Secretariat" (22 February 2006) A/AC.109/2006/5, para 1.

3 Charter of the United Nations (26 June 1945) 59 Stat 1031, art 73.

4 UNGA "Second International Decade for the Eradication of Colonialism" (22 March 2001) Report of the Secretary-General A/56/61.

5 Donald McLoughlin "The Development of the Systems of Government and Laws of Pitcairn Island from 1791 to 1971" in Donald McLoughlin *The Laws of Pitcairn, Henderson, Ducie and Oeno Revised Edition* (Government of the Islands of Pitcairn, Henderson, Ducie and Oeno Islands, Wembley, Western Australia, 1971) 11, 12.

6 *The Queen v 7 Named Accused* [2004] PNSC 1, para 150.

7 Eg provision of health care, education, gathering of revenue, fishing and enforcement of licenses, defence. These could possibly be the subjects of agreements with eg UK, NZ, French Polynesia.

8 See Appendix 2.

allow further development of self-government over time as Pitcairn becomes more able to govern itself.⁹

The term "constitution" has two meanings.¹⁰ The broader meaning refers to all the rules and conventions in a state that establish and regulate the government of the state. The narrower meaning is used to describe the actual document in which the organs of government are established and their basic functions set out.¹¹ This paper has focussed on the term in the narrower sense, with the goal of developing a self-government document that sets out the organs of government for the territory.

II CURRENT POSITION

A Executive, Legislative and Judicial Aspects of Government

The government power in Pitcairn is highly centralised, with the United Kingdom exercising almost total control over the executive and legislative decision-making in the territory. The Queen of England is the Head of State¹² and is able to delegate her powers to a single specified representative, who has the title of Governor.¹³ The Governor is empowered with the administration of the territory, with the Pitcairn Order 1970 and the Pitcairn Royal Instructions 1970 providing for the Governor's appointment, powers and duties.¹⁴

Under the Pitcairn Order 1970 the Governor has the power to make laws for the peace, order and good government of the Islands.¹⁵ Along with this general power, the Governor has specific powers to constitute courts for the Islands,¹⁶ to establish offices for the administration of the Islands and can also exercise certain aspects of the prerogative of mercy on behalf of the Queen.¹⁷ The general and wide-ranging powers of the Governor demonstrate that the power and control in Pitcairn is highly centralised. This position can be clearly seen by the fact that the United Kingdom retains the power of disallowance over all laws made by the Governor.¹⁸

9 See Appendix 2.

10 K C Wheare *Modern Constitutions* (2 ed, Oxford University Press, London, 1967) 2.

11 A W Bradley and K D Ewing *Constitutional Law and Administrative Law* (12 ed, Addison Wesley Longman Ltd, London, 1997) 4.

12 By virtue of the fact that Pitcairn is an Overseas Territory of the United Kingdom.

13 British Settlements Act 1945 (UK), s 1.

14 Pitcairn Order 1970, ss 4-10 and the Pitcairn Royal Instructions 1970, ss 3-7.

15 Pitcairn Order 1970, s 5(1).

16 Pitcairn Order 1970, s 5(2) – (4).

17 Pitcairn Order 1970, s 7; The Pitcairn Order 1970, s 10.

18 Pitcairn Order 1970, s 6.

The Island Council is the local executive and legislative body that has been established on Pitcairn. The Island Council consists of a mixture of elected Island Officers and appointed members.¹⁹ The Island Council manages the internal affairs of the Islands, having the power to make regulations for the good administration of the Islands, the maintenance of peace, order and public safety and the social and economic betterment of the islanders.²⁰ The centralised nature of power and control in Pitcairn is further demonstrated by the power of disallowance that the Governor has over the regulations made by the Island Council.²¹

The laws that set out the Head of State, the executive, the legislative and judicial branches of government in Pitcairn are included in the document containing the current laws in Pitcairn.²² The laws that establish the courts and judiciary of Pitcairn are relatively new and comprehensive, many having been made in context of the recent trials.²³ The Governor is empowered to constitute the courts and appoint the members of the judiciary.²⁴ The Island Council has powers only in relation to the administration of the Land Court. It appoints the members of the Land Court.²⁵

B Other Aspects of Government

The document in Appendix 1 includes the sources of law for the Islands. Ordinances and regulations have force of law in Pitcairn, along with the common law, equity and United Kingdom statutes of general application, so far as the local circumstances and jurisdiction of Pitcairn permit.²⁶

The relevant sections of the British Overseas Territories Act 2002 have been included in Appendix 1 as they provide the citizenship law for Pitcairn.²⁷ Pitcairn does not have a document stating the rights and freedoms of the people of the territory, however the Supreme Court of Pitcairn stated in *The Queen v 7 Named Accused* that the Human Rights Act 1998 (UK) is applicable to

19 Local Government Ordinance, s 6.

20 Local Government Ordinance, s 7(1)

21 Local Government Ordinance, s 7(4).

22 See Appendix 1 – Chapters I-V.

23 See for example the Judicature (Courts) Ordinance and Justice Ordinance, both made in 2000.

24 See the Judicature (Courts) Ordinance 2000, s 5(1) and s 11; the Pitcairn Court of Appeal Order 2000, s 3(3)(a).

25 Land Court Ordinance 2000, s 3(3).

26 Judicature (Courts) Ordinance 2001, s 16.

27 See Appendix 1 – Chapter VII.

Pitcairn.²⁸ The list of rights and freedoms in the Human Rights Act 1998 (UK) has therefore been included in Appendix 1.²⁹

The ownership and use of the land in Pitcairn is important in that it is the land that provides food and opportunities for income for the islanders.³⁰ Because of this importance, the laws relating to land and the Land Commission have been included in Appendix 1.³¹

The laws relating to government finance are few.³² The Government Treasurer is appointed by the Governor and can be directed by both the Governor and the Mayor.³³

C Summary

The collated document of the current constitutional law demonstrates the highly centralised nature of government in Pitcairn, with the United Kingdom retaining control, either through an express statement or through the overarching power of disallowance. The aim of this paper is to suggest an initial self-government document that would allow the Island Council to gradually assume more power in the territory until Pitcairn could self-govern to a greater degree.

III TOWARDS SELF-GOVERNMENT

One approach to the development of self-government is the gradual devolution of power held by the administering state to the local administration of the non-self-governing territory.³⁴ The process of devolution continues until the non-self-governing territory has developed such a sufficient level of self-government that a decision on the constitutional status of the territory can be made by the people of the non-self-governing territory.³⁵ This paper follows the devolution approach in discussing what an initial self-government document for Pitcairn may look like, based on the existing structures of government, but allowing for some of the Governor's powers to be transferred to the Island Council over time.

28 *The Queen v 7 Named Accused*, above n 6, para 161; see also "The End of an Empire: Developing a Draft Constitution for Pitcairn Island", above n *, 26.

29 See Appendix 1 – Chapter VIII.

30 UN Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples "Pitcairn Working Paper prepared by the Secretariat" (23 March 2004) A/AC.109/2004/2, para 23.

31 See Appendix 1 – Chapter IX.

32 See Appendix 1 – Chapter X.

33 Local Government Ordinance 1964, s 2 and s 10(3).

34 Another approach is by delegation of power. That approach has been used to a substantial degree by New Zealand in relation to Tokelau since 1993.

35 UNGA Res 742 (VIII) (27 November 1953). UNGA Res 1541 (XV) (15 December 1960).

In order to create the self-government document in Appendix 2 this paper has set out the respective legislative powers of the Governor and the Island Council. The Governor's general power to exercise legislative powers remains, however it is made subject to the self-government document.³⁶ This is the same for the Island Council, which retains its general power to make regulations, also subject to the self-government document.³⁷ In addition to these general powers, the document includes lists which divide up some areas of government, according to which body has authority over them.³⁸ These types of lists and divisions of powers can be seen in other constitutional documents, for example the law relating to the self-governing status of French Polynesia,³⁹ the draft federal constitution of Solomon Islands,⁴⁰ and the Norfolk Island Act 1979.⁴¹

The lists are divided into areas over which the Governor retains exclusive control, areas over which the Island Council may make regulations with the approval of the Governor and areas over which the Island Council may make regulations without requiring the Governor's approval. The topics that have been included in each list are examples of the types of matters that could possibly fall into them. For example, it would be natural for the Governor and the United Kingdom to wish to retain exclusive control over matters of international law and external affairs, as this could affect the United Kingdom's interests and Pitcairn does not have the means and expertise to deal with these matters on its own, whereas it would be appropriate for the Island Council to be able to make regulations on many areas of internal affairs without needing the Governor's approval as these matters may require prompt attention and could be very specific to the conditions on the Islands, which the Governor may not be familiar with.

The inclusion of the lists stating specified powers in the self-government document provides a mechanism by which self-government can develop in Pitcairn. The areas contained in each list are not fixed. Powers that the United Kingdom retains exclusively could shift into the area of the Island Council making regulations with the Governor's approval, eventually allowing more and more power to be devolved from the Governor to the Island Council as it becomes better able to deal with matters.⁴²

36 See Appendix 2 – Chapter IV, Governor.

37 See Appendix 2 – Chapter IV, Island Council.

38 See Appendix 2 – Chapter IV, Island Council.

39 Organic Law No 2004-192 of 27 February 2004 relating to the self-governing status of French Polynesia, see for example article 7 and article 14.

40 Federal Constitution of Solomon Islands, schedule 5, draft of 2004.

41 Norfolk Island Act 1979 (Clth) see for example s 12, s 19 and schedules 2 and 3.

42 As was done by New Zealand in the case of Tokelau.

Another development that could occur is that the areas over which the Island Council can make regulations with the approval of the Governor could change so that the approval was no longer needed. This would give more freedom to the territory in terms of their legislative powers, although the territory would still remain a United Kingdom territory and the Governor's general power of disallowance of regulations could remain applicable to all regulations as a safeguard.⁴³

The use of the lists in the self-governing document provides a mechanism by which Pitcairn can gradually assume more control over the legislative branch of government. This mechanism does not alter the situation in relation to the executive branch of government, with the United Kingdom retaining control of executive decisions. In order to develop self-government in the executive branch of government a clause has been inserted into the document in Appendix 2 providing that the Governor may delegate any powers that the Governor has under the Constitution or any Ordinance, to the local administration, the Island Council.⁴⁴ This clause allows the executive powers of the Governor to be delegated to the Island Council as Pitcairn becomes more self-governing.

The self-government document has made several other changes to the law currently in force in Pitcairn. Most of these changes are to reduce some of the Governor's involvement, thereby allowing the territory more control over its government. For example, the Governor's nominated member of the Island Council has been removed and a consultation provision created, whereby the Governor is to consult the Island Council in the exercise of legislative powers.⁴⁵ However the Governor is not obliged to act in accordance with the advice of the Island Council.⁴⁶ This could change as Pitcairn becomes more self-governing and consultation becomes a process that would have to be followed.

The self-government document has been set out in an order that reflects the system currently in place in the Islands. The government is structured from the top down, with the United Kingdom controlling almost all aspects. The document begins with the Head of State and the executive branch of government and the types of provisions that may be of more importance to the people of the territory, such as citizenship and rights and freedoms, come later in the document. The ordering of the document is open to change as Pitcairn develops self-government and the inhabitants could decide where they would want the emphasis within the document to lie and order it accordingly.

IV CONCLUSION

The self-government document presented by this paper is based on the current constitutional situation in Pitcairn. The document has retained the existing structures of the current government of

43 In some cases this power of disallowance could remain, however the convention may develop that the Governor will not exercise the power in relation to certain areas.

44 Appendix 2, chapter III, Head of Government.

45 See Appendix 2 – Chapter IV, Governor.

46 See Appendix 2 – Chapter IV, Governor.

Pitcairn, but provides mechanisms by which development of self-government can occur. The document provides for legislative power to be devolved from the United Kingdom and Governor to the Island Council. There is also a provision for the Governor to delegate executive powers to the Island Council. This enables self-government in the executive branch to develop alongside the legislative branch.

The document has been set out in the form of a constitution. The current laws have been rewritten for Appendix 2 to simplify the language and make them read as a more cohesive whole.

This paper recognises that the process of developing self-government for such a small, isolated territory as Pitcairn will be challenging, as there are many practical issues that will require solutions involving agreements between the administering power, the territory and other states.⁴⁷ The document presented by this paper is an initial step towards developing self-government for the territory which would culminate in the removal of Pitcairn from the UN list of non-self-governing territories.

47 Eg the new shipping agreement with French Polynesia.

APPENDIX 1

DOCUMENT CONTAINING THE CURRENT LAWS OF THE ISLANDS OF PITCAIRN, HENDERSON, DUCIE AND OENO

Chapter I The Territory

Whereas divers of Her Majesty's subjects have resorted to and settled in, and may hereafter resort to and settle in, divers places where there is no civilised government, and such settlements have become or may hereafter become possessions of Her Majesty and it is expedient to extend the power of Her Majesty to provide for the government of such settlements, and for that purpose to repeal and re-enact with amendments the existing Acts enabling Her Majesty to provide for such government.

(British Settlements Act 1887)

His Majesty, by any instrument passed under the Great Seal of the United Kingdom, or by any instructions under His Majesty's Royal Sign Manual referred to in any such instrument as made or to be made as respects any British settlement, to delegate to any specified person or persons or authority within the settlement all or any of the powers conferred by this Act on His Majesty in Council, either absolutely or subject to such conditions, provisions and limitations as may be specified in such instrument or instructions.

(British Settlements Act 1945, s 1)

"[T]he Islands" means the Islands of Pitcairn, Henderson, Ducie and Oeno.

(The Pitcairn Order 1970, s 2(1))

Chapter II Head of State

The Queen of England

(British Settlements Act 1887)

Chapter III The Executive

Governor

There shall be a Governor of the Islands who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

(The Pitcairn Order 1970, s 4(1))

The Governor may constitute all such offices as he may consider necessary for the purposes of this Order and may make appointments to any office so constituted, and any person so appointed, unless otherwise provided by law, shall hold his office during Her Majesty's pleasure.

(The Pitcairn Order 1970, s 7)

Island Council

There shall be an Island Council which shall consist of the following voting members namely-

- (a) the Island Officers, who shall be elected members;
- (b) the Island Secretary, who shall be an *ex officio* member; and
- (c) one nominated member appointed annually by the Governor;

and two non-voting members, to be known as advisory members, of whom one shall be appointed annually by the Governor and the other shall be appointed annually by the Council at the first meeting of the Council in January of each year, and who shall hold office until the 31st day of December in such year.

(Local Government Ordinance 1964, s 6(1))

Advisory members shall be entitled to take part in all proceedings at meetings of the Council but shall not be entitled to vote on any question coming before the Council.

(Local Government Ordinance 1964, s 6(3))

There shall be the following elected officials to be known as Island Officers-

- (a) the Mayor;
- (b) the Chairman of the Internal Committee;
- (c) four Councillors.

(Local Government Ordinance 1964, s 3(1))

Between the first and fifteenth days of December 1987 inclusive and thereafter between the first and fifteenth days of December inclusive in every third succeeding year the inhabitants of Pitcairn Island shall elect, in the manner provided therefor in Part III of this ordinance, the Mayor who shall take office on the first day of January in the year following the year of his or her election and remain in office until the 31st day of December in the third year following the year of his or her election and be eligible for re-election.

(Local Government Ordinance 1964, s 4(1))

Between the first and fifteenth days of December inclusive in every year the inhabitants of Pitcairn Island shall elect in the manner provided in Part III of this ordinance, the Island Officers other than the Mayor.

The Island Officers elected under the provisions of this section shall take office on the first day of January in the year following the year of their election and remain in office until the next succeeding 31st day of December.

(Local Government Ordinance 1964, s 5(1) and (2))

The Council shall meet for ordinary meetings once in every month and for special meetings at such other times as it may be summoned by the Mayor, who shall fix the time of ordinary and special meetings.

(Local Government Ordinance 1964, s 6(4))

No business shall be transacted at any meeting of the Council unless at least five voting members, of whom not fewer than four are elected members, are present.

(Local Government Ordinance 1964, s 6(6))

Every question before the Council shall be decided by the majority of the votes of the voting members present.

(Local Government Ordinance 1964, s 6(7))

The Mayor shall preside at every meeting of the Council. He or she shall have an original vote and, in the case of an equal number of votes on any question before the Council, a second or casting vote.

(Local Government Ordinance 1964, s 6(5))

The Mayor, in addition to his or her duties as President of the Council, shall be the chief executive officer of the Islands, and shall discharge such duties as may from time to time be assigned to him or her by the Governor.

(Local Government Ordinance 1964, s 10(1))

There shall be a Committee to be known as the Internal Committee which shall consist of the Chairman, who shall preside over all meetings of the Committee, and such members, not being the holders of any other official office, as may from time to time be appointed by the Council with the approval of the Governor.

It shall be the duty of the Committee to carry out the orders of the Council and to perform such duties as the Council may direct.

(Local Government Ordinance 1964, s 9(1) and (2))

Chapter IV The Legislature

It shall be lawful for Her Majesty the Queen in Council from time to time to establish all such laws and institutions, and constitute such courts and officers, and make such provisions and regulations for the proceedings in the said courts and for the administration of justice, as may appear to Her Majesty in Council to be necessary for the peace, order and good government of Her Majesty's subjects and others within any British settlement.

(British Settlements Act 1887, s 2)

The Governor may make laws for the peace, order and good government of the Islands.

(The Pitcairn Order 1970, s 5(1))

In the making of laws for the Islands the Governor shall observe, as far as is practicable, the following rules:-

All laws shall be styled as "Ordinances" and the words of enactment shall be "Enacted by the Governor of the Islands of Pitcairn, Henderson, Ducie and Oeno".

(The Pitcairn Royal Instructions 1970, s 4(1))

The Governor shall not, without having previously obtained instructions through a Secretary of State, make any law within any of the following classes, unless such law contains a clause suspending the operation thereof until the signification of Our pleasure thereon, that is to say-

- (1) any law for the divorce of married persons;
- (2) any law whereby any grant of land or money, or other donation or gratuity, may be made to himself;
- (3) any law affecting the currency of the Islands or relating to the issue of bank notes;

- (4) any law imposing differential duties;
- (5) any law the provisions of which shall appear to him to be inconsistent with obligations imposed upon Us by Treaty;
- (6) any law affecting the discipline or control of Our Forces by land, sea or air;
- (7) any law of any extraordinary nature and importance whereby Our prerogative, or the rights or property of Our subjects not residing in the Islands or the trade, transport or communications of any part of Our dominions or any territory under Our protection or any territory in which We may for the time being have jurisdiction may be prejudice;
- (8) any law whereby persons of any community or religion may be subjected or made liable to disabilities or restrictions to which persons of other communities or religions are not also made liable, or become entitled to any privilege or advantage which is not conferred on persons of other communities or religion;
- (9) any law containing provisions which have been disallowed by Us:

Provided that the Governor may, without such instructions as aforesaid and although the law contains no such clause as aforesaid, enact any such law (except a law the provisions of which appear to him to be inconsistent with the obligations imposed upon Us by Treaty) if he shall have satisfied himself that an urgent necessity exists requiring that the law be brought into immediate operation; but in any such case he shall forthwith transmit a copy of the law to Us together with his reasons for enacting the same.

(The Pitcairn Royal Instructions, s 5)

Any law made by the Governor in exercise of the powers conferred by this Order may be disallowed by Her Majesty through a Secretary of State.

Whenever any law has been disallowed by Her Majesty, the Governor shall cause notice of such disallowance to be published in such manner and in such place or places in the Islands as the Governor may from time to time direct.

(The Pitcairn Order 1970, s 6(1) and (2))

Subject to the orders and directions of the Governor, it shall be the duty of the Council to provide for the enforcement of the provisions of this and all other ordinances for the time being in force in the Islands and of any regulations made thereunder and it may make, amend or revoke regulations for the good administration of the Islands, the maintenance of peace, order and public safety and the social and economic betterment of the islanders.

Without derogating from the generality of the provisions of the last preceding subsection the Council may make, amend or revoke regulations relating to-

- (a) public health and keeping the Islands clean;
- (b) town and country planning;
- (c) the use and control of public property;
- (d) public work and other public activities;
- (e) plant and animal quarantine;
- (f) the care and control of animals and wild life;
- (g) the care of children and aged persons;
- (h) the conservation of land, soil and food supplies;
- (i) fishing and fishing rights;
- (j) the prison;
- (k) the registration, use, care and demarcation of land;
- (l) the control of explosives and firearms;
- (m) trading by and between islanders and visits to ships, and
- (n) the appointment, powers and duties of such officers, boards and committees as the Council considers necessary for the efficient discharge of any of its duties or the implementation of any regulations made under the provisions of this or any other ordinance.

(Local Government Ordinance 1964, s 7(1) and (2))

All regulations made under the provisions of this ordinance shall be signed by the Mayor and by the Island Secretary and publicly notified by affixing copies thereof to the public notice board and shall come into force on the day of such notification.

(Local Government Ordinance 1964, s 7(3))

Copies of all regulations made under the provisions of this ordinance shall be sent forthwith to the Governor who may by order, to be publicly notified by affixing a copy of the same to the public notice board, alter, vary or revoke any such regulations.

(Local Government Ordinance 1964, s 7(4))

Chapter V The Judiciary

Without prejudice to the generality of the power conferred by subsection (1), the Governor may, by any such law, constitute courts for the Islands with such jurisdiction, and make such provisions and regulations for the proceedings in such courts and for the administration of justice, as the Governor may think fit.

(The Pitcairn Order 1970, s 5(2))

1 Supreme Court

There shall continue to be for the Islands a Supreme Court which shall be called "the Supreme Court of Pitcairn, Henderson, Ducie and Oeno Islands" and shall be a Court of Record and the Superior Court of Judicature for the Islands.

(Judicature (Courts) Ordinance 2000, s 3)

The Supreme Court shall consist of the Chief Justice and such other judge or judges as the Governor shall from time to time appoint by instrument under the Official Seal in accordance with any instructions given by Her Majesty through a Secretary of State.

(Judicature (Courts) Ordinance 2000, s 5(1))

The Supreme Court shall, subject as in any law provided, possess and exercise all the jurisdiction, powers and authorities which are for the time being vested in or capable of being exercised by the High Court and by the Crown Court of England [and Wales] or by any judge of those courts.

(Judicature (Courts) (Amendment) Ordinance 2001, s 6)

Any person convicted on a trial held by the Supreme Court may appeal to the Court of Appeal-

- (a) against conviction-
 - (i) on any ground of appeal whenever the penalty awarded shall exceed six months' imprisonment or a fine of \$1,000.00;
 - (ii) on any ground of appeal which involves a question of law alone;
 - (iii) with the leave of the Court of Appeal or upon a certificate of the Chief Justice that it is a fit case for appeal, on any ground of appeal which involves a question of fact alone or a question of mixed law and fact or on any other ground which appears to the Court to be a sufficient ground of appeal;
- (b) against sentence with the leave of the Court of Appeal unless the sentence is one fixed by law.

(Judicature (Appeals in Criminal Cases) Ordinance 2000, s 36(1))

2 *Court of Appeal*

There shall be a Court of Appeal for the Islands which shall be styled the Pitcairn Court of Appeal.

The judges of the Court shall be:

- (a) a President and two or more Justices of Appeal; and
- (b) the Chief Justice of the Supreme Court of the Islands, who shall be a member of the Court *ex officio*.

(The Pitcairn Court of Appeal Order 2000, s 3(1) and (2))

- (a) The President and the Justices of Appeal shall be appointed by the Governor in accordance with instructions given by Her Majesty through a Secretary of State and shall hold office during Her Majesty's pleasure on such terms and conditions as the Governor may, in accordance with such instructions, prescribe.

(The Pitcairn Court of Appeal Order 2000, s 3(3)(a))

The Court shall have jurisdiction to hear and determine such appeals from the courts of the Islands as may be prescribed by any law in force in the Islands.

(The Pitcairn Court of Appeal Order 2000, s 4(1))

3 *Judicial Committee of the Privy Council*

Subject to the provisions of this Order, an appeal shall lie-

- (a) as of right, from any final judgment where the matter in dispute on the appeal amounts to or is of the value of £5,000 or upwards, or where the appeal involves directly or indirectly some claim or question to or respecting property or some civil right amounting to or of the said value or upwards; and
- (b) at the discretion of the Court, from any other judgment, whether final or interlocutory, if, in the opinion of the Court, the question involved in the appeal is one which, by reason of its great or general importance or otherwise, ought to be submitted to Her Majesty in Council for decision.

(The Pitcairn (Appeals to Privy Council) Order 2000, s 3)

4 *Magistrate's Court*

There shall be for the Islands a court subordinate to the Supreme Court to be styled "the Magistrate's Court" which shall be presided over by a magistrate appointed under the provisions of section 11 of this ordinance.

(Judicature (Courts) Ordinance 2000, s 10(1))

Subject to this section, the Governor may appoint any fit and proper person to be a magistrate of the Magistrate's Court.

A magistrate, to be known as the Island Magistrate, shall be appointed from among the permanent residents of the Islands, who shall not be required to be professionally qualified in law but who must have been resident in the Islands at the time of his or her appointment for not less than 5 years.

The Island Magistrate may exercise the jurisdiction and shall have the powers set out in Part II of the Justice Ordinance.

Magistrates of the Court, other than the Island Magistrate, shall be required to be qualified in law and to have practised in any Commonwealth country for not less than 5 years prior to the date of his or her appointment.

Every magistrate shall be subject at all times to the authority and directions of the Chief Justice or other judge of the Supreme Court and shall hold office during Her Majesty's pleasure on such terms as the Governor may prescribe.

(Judicature (Courts) Ordinance 2000, s 11(1), (2), (3), (4) and (5))

Subject to this ordinance, the Court shall be constituted by a Magistrate sitting with two assessors to be appointed in the manner hereafter provided.

(Justice Ordinance 2000, s 3(2))

In criminal cases, the Magistrate's Court may promote reconciliation and encourage and facilitate the settlement in an amicable way of proceedings for common assault, or for any offence of a personal or private nature not aggravated in degree, on terms of payment of compensation or other terms approved by such Court, and may thereupon order the proceedings to be stayed or terminated.

In civil cases, the Magistrate's Court and officers thereof shall, as far as there is proper opportunity, promote reconciliation among persons subject to its jurisdiction and encourage and facilitate settlement in an amicable way and without recourse to litigation of matters in difference between them.

(Judicature (Courts) Ordinance 2000, s 15(1) and (2))

Subject to any rules of Court made under the provisions of section 20 of this ordinance, an appeal shall lie to the Supreme Court in respect of any judgment, sentence or order of the Magistrate's Court.

(Judicature (Courts) Ordinance 2000, s 14)

Save as hereinafter provided any person convicted on a trial by the Magistrate's Court may appeal to the Supreme Court against conviction or sentence or both.

An appeal to the Supreme Court may be on a question of fact as well as on a question of law.

(Judicature (Appeals in Criminal Cases) Ordinance 2000, s 3(1) and (2))

Any party to an appeal from the Magistrate's Court may appeal against the decision of the Supreme Court in its appellate jurisdiction to the Court of Appeal on a matter of law (not including severity of sentence) but not on a matter of fact or mixed fact and law.

For the purposes of this section the expression "decision of the Supreme Court in its appellate jurisdiction" shall include a decision of that Court made in revision or on a case stated.

(Judicature (Appeals in Criminal Cases) Ordinance 2000, s 21(1))

5 Lands Court

There is hereby established a court with jurisdiction over land in place of the former Lands and Estates Court, to be known as the Lands Court, which shall be a court of record.

(Lands Court Ordinance 2000, s 3(1))

The Lands Court shall consist of a President who shall be the Mayor *ex officio* and who shall preside over all sittings of the Court and four other members who shall be appointed by the Council and who shall hold office for a term of two years from the date of their appointment.

(Lands Court Ordinance 2000, s 3(3))

The Court shall be charged with the following duties-

- (a) to exercise a supervisory jurisdiction over all lands on Pitcairn Island;
- (b) to cause the boundaries of all lands on Pitcairn Island in respect of which ownership has been determined according to law to be demarcated on the ground;
- (c) to cause a register to be kept and maintained in respect of all lands on Pitcairn Island the ownership of which has been determined under the provisions of this ordinance and of the Land Tenure Reform Ordinance;
- (d) to hear and determine all applications for the grant of Land Allocation Titles under Part III of the Land Tenure Reform Ordinance;
- (e) to hear and determine all disputes relating to the ownership of land on Pitcairn Island;

- (f) to determine all other questions relating to lands on Pitcairn Island as may be referred to it by the Council or by any inhabitant of Pitcairn Island under any of the provisions of this ordinance or the Land Tenure Reform Ordinance.

(Lands Court Ordinance 2000, s 5)

Every decision of the Court shall be subject to review by the Supreme Court in accordance with the provisions of section 13 of the Land Tenure Reform Ordinance.

(Lands Court Ordinance 2000, s 8)

Every decision of the Court under the provisions of this ordinance shall be subject to review by the Supreme Court in its civil jurisdiction on the application of any person having an interest therein made in writing within three calendar months after the date of such decision or of its own motion.

(Land Tenure Reform Ordinance 2000, s 13(1))

Chapter VI Sources of Law

[The laws stated above under Legislature are sources of law in Pitcairn]

Subject to the provisions of subsection (2), the common law, the rules of equity and the statutes of general application as in force in and for England for the time being shall be in force in the Islands.

All the laws of England extended to the Islands by subsection (1) shall be in force therein so far only as the local circumstances and the limits of local jurisdiction permit and subject to any existing or future ordinance and for the purpose of facilitating the application of the said laws it shall be lawful to construe the same with such formal alterations not affecting the substance as to names, localities, courts, offices, persons, moneys, penalties and otherwise as may be necessary to render the same applicable to the circumstances.

(Judicature (Courts) Ordinance 2001, s 16(1) and (2))

Chapter VII Citizenship

Pitcairn, Henderson, Ducie and Oeno Islands are a British Dependiant Territory.

(British Nationality Act 1981, Schedule 6, para 1)

As the territories mentioned in Sechedule 6 to the British Nationality Act 1981 are now known as "British overseas territories".

(British Overseas Territory Act 2002, s 1(1))

Any person who, immediately before the commencement of this section, is a British overseas territories citizen shall, on the commencement of this section, become a British citizen.

(British Overseas Territories Act 2002, s 3(1))

Chapter VIII *Rights and Freedoms*

The Governor shall not, without having previously obtained instructions through a Secretary of State, make any law within the following classes, unless such law contains a clause suspending the operation thereof until the signification of Our pleasure thereon, that is to say-

- (5) any law the provisions of which shall appear to him to be inconsistent with obligations imposed upon Us by Treaty;
- (8) any law whereby persons of any community or religion may be subjected or made liable to disabilities or restrictions to which persons of other communities or religions are not also made liable, or become entitled to any privilege or advantage which is not conferred on persons of other communities or religions;

(The Pitcairn Royal Instructions 1970, s 5(5) and (8))

It was accepted by the Crown that the UK Human Rights Legislation, where applicable, is relevant to Pitcairn and, in particular, the Human Rights Act 1998 (UK) and the European Convention on Human Rights and Fundamental Freedoms.

(The Queen v 7 Named Accused, Pitcairn Supreme Court 19th April 2004, Trials No 1-55/2003)

So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the Convention rights.

(Human Rights Act 1998, s 3(1))

[See European Convention of Human Rights]

- (a) Right to life
- (b) Prohibition of Torture
- (c) Prohibition of Slavery and Forced labour
- (d) Right to Liberty and Security
- (e) Right to a Fair Trial
- (f) No Punishment without Law
- (g) Right to Respect for Private and Family Life
- (h) Freedom of Thought, Conscience and Religion
- (i) Freedom of Expression
- (j) Freedom of Assembly and Association
- (k) Right to Marry

- (l) Prohibition of Discrimination
- (m) Protection of Property
- (n) Right to Education
- (o) Right to Free Elections

(Human Rights Act 1998 (UK), Schedule 1 (Articles 2-12 and 14 of The Convention) and Schedule II (Articles 1-3 of the First Protocol)

Chapter IX Land

There is hereby established a Land Commission comprising the elected members of the Island Council and such other persons appointed from among the permanent residents of the Islands by order of the Governor so that each extended family shall be represented by at least one member.

It shall be the function and responsibility of the Land Commission to identify and establish the boundaries of all usable land on Pitcairn Island other than house land, public land and reserve land, that is to say, all garden land, orchard land and forestry land, and to cause the same to be divided into viable blocks according to the classification of land.

The Land Commission shall compile and maintain a register of the said land and shall establish marks delineating the boundaries thereof in durable and permanent form.

The Land Commission shall have power in the course of its duties to make recommendations to the Governor that any area of land should be dedicated to the Island Council or any other public authority in perpetuity as reserve land for use as a public utility.

(Land Tenure Reform Ordinance 2000, s 3(1), (2), (3) and (6))

On a date to be appointed by the Governor by order, after completion of the functions of the Land Commission under the provisions of section 3 of this ordinance (hereinafter referred to as "the suspension date"), all existing freehold title to any interest in private land in the Islands shall be deemed to be suspended and the Court shall thereafter have jurisdiction to allocate title to all land, other than public land and reserves, in accordance with applications made under the following provisions of this section.

Subject to the provisions of this ordinance, all permanent residents and former permanent residents of the Islands and their children and grandchildren (having reached the age of 18 years), may apply to the Court for the allocation of land in any classifications of house land, garden land, orchard land and forestry land, provided that the applicant is resident at the time of the application and fully intends to remain as a resident.

(Land Tenure Reform Ordinance 2000, s 4(1) and (2))

Every Land Allocation Title shall create a leasehold estate in the land affected held without consideration of rent from the Island Council as lessor for the following terms...

(Land Tenure Reform Ordinance 2000, s 5(1))

Upon the expiry of any term of a Land Allocation Title, the said interest shall revert to the Island Council as lessor which shall hold the same pending the making of a new application to the Court.

Any land which has not been allocated in accordance with the foregoing provisions of this section shall be vested in the Island Council and shall remain available for allocation by the Court upon appropriate application.

(Land Tenure Reform Ordinance 2000, s 5(2) and (3))

It shall be unlawful to enter into an agreement for, and the Court shall have no jurisdiction to approve, the transfer *inter vivos* of any interest in land to a person who is not a permanent resident of the Islands.

(Land Tenure Reform Ordinance 2000, s 11(1))

Any attempt to assume ownership or control of or to possess, occupy, transfer, transmit or otherwise deal with land on the islands of Henderson, Ducie or Oeno shall be null and void without prior approval of the Governor.

(Lands Court Ordinance 2000, s 20(1))

Nothing in this ordinance contained shall be deemed to affect any right, title or interest of the Crown in, upon or over any land on Pitcairn, Henderson, Ducie or Oeno Islands nor is the Crown in any way subject to any of the provisions of this ordinance.

(Lands Court Ordinance 2000, s 22)

Chapter X Finance and Audit

New Zealand currency notes issued in pursuance of the law of New Zealand (hereinafter referred to as "currency notes") shall to the extent to which they are legal tender within New Zealand be legal tender within the Islands.

(Currency Ordinance 1988, s 3(1))

There shall be a Commissioner of Currency for the purposes of this ordinance.

The Governor shall be *ex officio* the Commissioner unless he shall by order appoint another suitable person to be the Commissioner in his place.

(Currency Ordinance 1988, s 6(1) and (2))

Pitcairn coins shall be of such denomination in dollars and cents, and of such form and design, as shall be prescribed by the Commissioner with the approval of the Secretary of State.

The Pitcairn dollar shall be at all times equal in value to the New Zealand dollar.

(Currency Ordinance 1988, s 4(1) and (2))

"Government Treasurer" means the person from time to time appointed by the Governor to hold the public office of Government Treasurer.

(Local Government Ordinance 1964, s 2)

The Government Treasurer shall keep the accounts of the Islands and perform such other duties as the Governor or the Mayor may from time to time direct.

(Local Government Ordinance 1964, s 10(3))

All costs of and incidental to the issue of Pitcairn coin under this ordinance shall be charged upon the general revenue of the Islands.

All moneys due and receivable by or on behalf of the Commissioner under this ordinance shall be paid into the general revenue of the Islands.

(Currency Ordinance 1988, s 5(1) and (2))

All moneys levied and received and all penalties recovered under the provisions of this ordinance shall be paid to the general revenue of the Islands.

(Post Office Ordinance 1954, s 26)

The Agency shall keep to the satisfaction of the Government Auditor such accounts as the Island Council may from time to time prescribe by Regulations made under the provisions of this ordinance.

(Souvenir Agency Ordinance 1964, s 7)

The accounts of the Agency shall be audited annually by the Government Auditor.

(Souvenir Agency Ordinance 1964, s 8)

Chapter XI Prerogative of Mercy

The Governor may, in Her Majesty's name and on Her Majesty's behalf –

- (a) grant to any person convicted of any offence under the law of the Islands a pardon, either free or subject to lawful conditions;
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence;
- (c) substitute a less severe form of punishment for any punishment imposed on any person for such an offence; and

- (d) remit the whole or part of any punishment imposed on any person for such an offence or of any penalty or forfeiture otherwise due to Her Majesty on account of such an offence.

(The Pitcairn Order 1970, s 10)

APPENDIX 2

SELF-GOVERNMENT DOCUMENT FOR THE ISLANDS OF PITCAIRN, HENDERSON, DUCIE AND OENO

Chapter I The Territory

The Islands of Pitcairn, Henderson, Ducie and Oeno are all the islands, internal waters, territorial seas, and other areas to which the Islands are entitled at international law.

The Islands means the Islands of Pitcairn, Henderson, Ducie and Oeno.

Chapter II Head of State

Her Majesty the Queen of England is the Head of State of the Islands of Pitcairn, Henderson, Ducie and Oeno.

Chapter III The Executive

Head of Government

Executive authority of the Islands is vested in Her Majesty.

There shall be a Governor of the Islands who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure.

The Governor, in accordance with this Constitution, shall exercise legislative and executive powers.

The Governor may, by notice in writing, delegate to the Island Council any of the powers of the Governor which are prescribed by this Constitution or by Ordinance.

Island Council

There shall be an Island Council shall consist of-

- (a) the Island Officers, and Island Secretary, *ex officio*, as voting members; and
- (b) two non-voting members, to be known as advisory members, of whom one shall be appointed annually by the Governor and the other shall be appointed by the Island Council at the first meeting of the Island Council in January of each year, and who shall hold office until 31 December in that year.

The Island Council shall have the following elected officials to be known as Island Officers-

- (a) the Mayor, who shall be the President of the Island Council;
- (b) the Chairman of the Internal Committee;
- (c) four Councillors.

Subject to this Constitution, the mode of electing the Island Officers, the terms and conditions of the membership of the Island Council, the qualifications of electors and the manner in which the roll of individual voters shall be prescribed by law.

The Mayor shall be elected for a term of three years in the manner prescribed by law and the Mayor shall be eligible for re-election.

The other Island Officers shall be elected for a term of one year in the manner prescribed by law and shall be eligible for re-election.

The Mayor, in addition to the duties as President of the Island Council, shall be the chief executive officer of the Islands, and shall discharge such duties as are assigned to the Mayor by law.

The Island Council shall meet for ordinary meetings once every month. Special meetings at other times may be summoned by the Mayor.

No business shall be transacted at any meeting of the Island Council unless at least five voting members, of whom not fewer than four elected members, are present.

Every question before the Island Council shall be decided by the majority of the votes of the voting members present.

Subject to any law, the Island Council shall make rules for the conduct its business.

Subject to this Constitution, the Island Council shall administer this Constitution and all laws in force in the Islands.

The Island Council shall, with the approval of the Governor, appoint such public officers as are necessary to assist the Island Council and the Governor in the administration of the Islands.

Chapter IV The Legislature

Governor

Subject to this Constitution, the Governor may make laws for the peace, order, and good government of the Islands.

All laws made by the Governor shall be styled as "Ordinances" and the words of enactment shall be "Enacted by the Governor of the Islands of Pitcairn, Henderson, Ducie and Oeno".

The Governor shall consult the Island Council in the exercise of legislative powers, however the Governor is not obliged to act in accordance with the advice of the Island Council.

Island Council

Subject to this Constitution, the Island Council shall, in accordance with this Constitution, make regulations for the Islands.

The Island Council shall not make regulations on any of the following-

- (a) matters of international law;
- (b) defence, including matters affecting the discipline or control of United Kingdom Forces by land, sea or air, and security links;
- (c) civil rights;
- (d) citizenship and nationality;
- (e) the status of United Kingdom civil servants.

The Island Council shall not, without having previously obtained approval from the Governor, make regulations on any of the following matters-

- (a) the Royal Prerogative;
- (b) the justice system;
- (c) the currency of the Islands;
- (d) trade;
- (e) transport;
- (f) communication in the postal and telecommunications services;
- (g) immigration;
- (h) the policing and security of maritime traffic and surveillance of fishing;
- (i) conservation.

Subject to this Constitution, the Island Council may make regulations relating to-

- (a) public health and keeping the Islands clean;
- (b) town and country planning;
- (c) the use and control of public property;
- (d) public work and other public activities;

- (e) plant and animal quarantine;
- (f) the care and control of animals and wild life;
- (g) the care of children and aged persons;
- (h) the land, soil and food supplies;
- (i) fishing and fishing rights in the territorial sea and internal waters of the Islands;
- (j) the prison;
- (k) the registration, use, care and demarcation of land;
- (l) the control of explosives and firearms;
- (m) trading by and between islanders and visits to ships, and
- (n) the appointment, powers and duties of such officers, boards and committees as the Island Council considers necessary for the efficient discharge of any of its duties or the implementation of any regulations made under any law.

All regulations made by the Island Council shall be sent to the Governor who may disallow any such regulation by giving public notice within 30 days of receipt. Where a regulation is disallowed the Governor shall advise the Island Council of the reasons for the disallowance.

Chapter V The Judiciary

1 Supreme Court

There shall be for the Islands a Supreme Court which shall be called "the Supreme Court of Pitcairn, Henderson, Ducie and Oeno Islands" and shall be a Court of Record and the Superior Court for the Islands.

The Supreme Court shall, subject to any law, possess and exercise all the jurisdiction, powers and authorities which are for the time being vested in or capable of being exercised by the High Court and by the Crown Court of England or by any judge of those courts.

The Supreme Court shall consist of the Chief Justice and such other judge or judges as are appointed by Ordinance.

Any person convicted on a trial held by the Supreme Court may appeal to the Court of Appeal.

2 Court of Appeal

There shall be a Court of Appeal for the Islands which shall have jurisdiction to hear and determine such appeals from the courts of the Islands as may be prescribed by law.

The judges of the Court shall be-

- (a) a President and two or more Justices of Appeal; and
- (b) the Chief Justice of the Supreme Court of the Islands, *ex officio*.

The President of the Court and the Justices of Appeal shall be appointed by Ordinance.

The qualifications and appointment of Judges shall be provided for by Ordinance.

3 *Judicial Committee of the Privy Council*

An appeal shall lie from the Court of Appeal to the Privy Council on leave granted by the Court of Appeal from any judgment, whether final or interlocutory, if, in the opinion of the Court, the question involved in the appeal is one which, by reason of its great or general importance or otherwise, ought to be submitted to Her Majesty in Council for decision.

4 *Magistrate's Court*

There shall be for the Islands a court subordinate to the Supreme Court to be styled "the Magistrate's Court" which shall be presided over by a Magistrate appointed by Ordinance.

The Magistrate, known as the Island Magistrate, shall be appointed from among the permanent residents of the Islands, who shall not be required to be professionally qualified in law but who must have been resident in the Islands at the time of appointment for not less than five years.

Other Magistrates shall be qualified in law and have practised in a Commonwealth country for not less than five years prior to the date of appointment as Magistrate.

Every Magistrate shall be subject at all times to the authority and directions of the Chief Justice or other judge of the Supreme Court and shall hold office during Her Majesty's pleasure on such terms as prescribed by Ordinance.

5 *Land Court*

There shall be a Land Court which shall have jurisdiction over all matters relating to land in the Islands.

The Land Court comprises the Mayor as President and 4 other members appointed by the Island Council who shall hold office for a term of two years from the date of appointment.

The duties and responsibilities of the Land Court shall be prescribed by regulation.

The Supreme Court will hear appeals from the Land Court. The decision of the Supreme Court on an appeal from the Land Court is final.

The procedures and processes of the Land Court shall be prescribed by regulation.

Chapter VI Sources of Law

The following, in decreasing order of importance, are the sources of law in the Islands-

- (a) Acts of the United Kingdom Parliament expressly extended to the Islands;
- (b) Orders in Council;
- (c) Ordinances;
- (d) regulations;
- (e) the Royal Prerogative;
- (f) the common law and the rules of equity of England for the time being, so far only as the local circumstances and the limits of local jurisdiction permit and subject to any adaptations and modifications as necessary to the circumstances of the Islands.

Notification of all legislation shall occur as soon as possible after its making by public notice.

Chapter VII Citizenship

The people of the Islands are British subjects and the citizenship law of the Islands is the citizenship law of the United Kingdom.

Chapter VIII Rights and Freedoms

Subject to this Constitution, the United Kingdom Human Rights Act 1998 (UK), and the European Convention on Human Rights and Fundamental Freedoms are law in the Islands.

Chapter IX Land

There shall be a Land Commission comprising the elected members of the Island Council and such others appointed from among the permanent residents of the Islands by the Island Council so that each Pitcairn extended family shall be represented by at least one member.

The position of Chairman of the Land Commission shall be rotated among the members of the Land Commission.

Subject to this Constitution, the functions and responsibilities of the Land Commission and the rules of its administration and process shall be as prescribed by regulation.

It shall be the function and responsibility of the Land Commission to identify and establish the boundaries of all useable land on Pitcairn Island and to divide this land into blocks according to classifications that shall be prescribed by law.

The Island Council owns all land in trust for the inhabitants of the Islands.

Reserve land is held by the Island Council in perpetuity for environmental or conservation purposes or any other significant potential use of public utility.

Every allocation of title creates a leasehold estate in the land affected, held without consideration of rent from the Island Council as lessor. The terms and duration of leasehold estates shall be prescribed by regulation. No person may transfer, mortgage, charge or sublease any interest in land. Any purported transaction is void.

The Land Court has jurisdiction to allocate title to all land other than reserve land.

There are no interests in land other than those specified in the Constitution.

Chapter X *Finance and Audit*

Legal tender in the Islands is New Zealand currency notes and Pitcairn coins.

The Pitcairn dollar shall be at all times equal in value to the New Zealand dollar.

A Government Treasurer shall be appointed as a public officer to keep the accounts of the Islands and perform any other duties as prescribed by law.

All revenue received for the purposes of the Islands is public money and shall be paid into the Islands Account.

No taxes shall be imposed except by law.

No money shall be withdrawn from the Islands Account except to meet expenditure authorised by the current budget approved by the Island Council or in accordance with a rule of law.

The Islands Account and any other public funds or accounts established shall be audited annually by a qualified auditor as prescribed by law.

Chapter XI *Initiatives for Constitutional Amendment*

Initiatives for constitutional amendment may be presented to the Head of State for favourable consideration where they have the support of two thirds of the people entitled to vote in the Island Council elections.

Chapter XII *Prerogative of Mercy*

The Prerogative of Mercy may be exercised by the Head of State.

Chapter XIII *Transitional Provisions*

[Subject to this Constitution, the existing law shall remain in force.]

[The Governor shall continue in office.]

[The Island Council shall continue.]

[The Courts and the people appointed as judges and magistrates shall continue.]