



HIGH COURT OF AUSTRALIA

Public Information Officer

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GEOFFREY JAMES BENNETT, JOHN EDGAR CHRISTIAN, BRUCE STANLEY WALKER,
ANN MITCHELL WALKER, RICHARD AARON KLEINER AND ADMINISTRATION OF
NORFOLK ISLAND v COMMONWEALTH OF AUSTRALIA

The High Court of Australia today dismissed a challenge to the validity of Commonwealth legislation requiring voters and candidates in Norfolk Island elections to be Australian citizens.

Norfolk Island became a territory of the Commonwealth in 1914 when it was placed under the authority of and accepted by the Commonwealth in accordance with section 122 of the Constitution. Norfolk Island has since been governed pursuant to a series of Commonwealth Acts. The *Norfolk Island Act 1979* granted self-government and established the Legislative Assembly of Norfolk Island. The *Norfolk Island Amendment Act 2004* amended the *Norfolk Island Act* to make Australian citizenship a necessary qualification for voting for, and standing for election to, the Legislative Assembly.

Norfolk Island was occupied as a British penal settlement from 1788 to 1814 and from 1825 to 1855. When the second penal settlement was abandoned, the Imperial authorities set aside Norfolk Island for occupation by the inhabitants of Pitcairn Island, which lies between New Zealand and Chile. Pitcairn Island was settled in 1790 by mutineers from the *Bounty* and some Polynesian men and women. The 200 or so inhabitants of Pitcairn arrived on Norfolk Island in June 1856.

From 1856 to 1914 Norfolk Island was administered by the Governor of New South Wales, although until 1897 the Governor administered Norfolk Island in his capacity as Governor of Norfolk Island. New South Wales took over the financial management of the island from 1897 to 1914. Since 1914, the Commonwealth has been responsible for financing the administration and the development and maintenance of infrastructure on Norfolk Island. The 2001 census recorded that Norfolk Island had a permanent population of 1574, of whom 82.5 per cent were Australian citizens and 14.1 per cent were New Zealand citizens, and that 48 per cent were descended from the Pitcairn Islanders.

The Court held unanimously that the *Norfolk Island Amendment Act* was a valid exercise of the Commonwealth Parliament's power to make laws "for the government of any territory" under section 122 of the Constitution. The Court rejected the plaintiffs' contention that in providing for self-government of the island, Parliament was obliged to provide for a particular type of democratic representation that did not discriminate on the basis of Australian citizenship. Nothing in section 122 or elsewhere in the Constitution prohibited Parliament from granting electoral rights on the basis of Australian citizenship.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*