PACIFIC POSSESSIONS

1952 No. 459

The Pitcairn Order in Council, 1952

Made - - - -	10*th March*, 1952
Laid before Parliament	11*th March*, 1952
Coming into Operation	1*st April*, 1952

At the Court at Clarence House, the 10th day of March, 1952

Present

The Queen's Most Excellent Majesty in Council

Whereas provision is made for the government of the Islands of Pitcairn, Henderson, Ducie and Oeno by the Pacific Order in Council, 1893(a):

And Whereas it is expedient to make other provision for the government of the said Islands:

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the British Settlements Acts, 1887(b) and 1945(c), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Short title and commencement

1. This Order may be cited as the Pitcairn Order in Council, 1952, and shall come into operation on the first day of April, 1952.

Interpretation

2.—(1) In this Order unless the context otherwise requires—

"Fiji" means the Colony of Fiji;

"Governor" means the Governor of Fiji and includes any person for the time being administering the Government of Fiji and, to the extent to which a Deputy for the Governor is authorised to act, that Deputy;

"High Commissioner" means Her Majesty's High Commissioner for the Western Pacific;

"the Islands" means the Islands of Pitcairn, Henderson, Ducie and Oeno;

"Pacific Order in Council" means the Pacific Order in Council, 1893, as from time to time amended by Order in Council.

(2) Save as in this Order otherwise provided or required by the context, the Interpretation Act, 1889(d), shall apply in relation to this Order as it applies in relation to an Act of Parliament.

(a) Rev. VIII, p. 597; 1893, p. 312. (b) 50 & 51 Vict. c. 54.
(c) 9 & 10 Geo. 6. c. 7. (d) 52 & 53 Vict. c. 63.

Revocation of Pacific Order in Council

3. Without prejudice to anything lawfully done thereunder, the Pacific Order in Council is hereby revoked in so far as it applies to the Islands:

Provided that, until the Governor, by law made under the provisions of this Order, provides that the jurisdiction of the High Commissioner's Court in the Islands shall cease, and subject as hereinafter provided—

(*a*) the High Commissioner's Court, when consisting of a Judicial Commissioner, shall continue to have all the jurisdiction with respect to causes or matters occurring or arising in the Islands which it would have if the Pacific Order in Council still applied to the Islands; and

(*b*) such jurisdiction shall be exercisable upon the principles of, and in conformity with, such law, and according to such procedure and practice, as would be applicable if the Pacific Order in Council still applied as aforesaid; and

(*c*) judgments, decrees, orders and sentences of the Court shall be enforced and executed as if the Pacific Order in Council still applied as aforesaid;

and until the Governor provides as aforesaid, the following provisions shall have effect:—

(i) the Governor may, by law made under the provisions of this Order, make such provision adding to or subtracting from the jurisdiction of the High Commissioner's Court constituted as aforesaid and modifying the law upon the principles of which, and the procedure and practice in accordance with which, such jurisdiction is exercisable, and modifying the manner of enforcement and execution of judgments, decrees, orders and sentences of the Court, and such provision with respect to appeals from the said Court, as he may think fit; and

(ii) subject to any law made under the provisions of this Order, where under or in pursuance of the provisions of the Pacific Order in Council the High Commissioner has power to make any order or give any direction regarding the exercise of the jurisdiction of the High Commissioner's Court constituted as aforesaid or regarding the enforcement or execution of the judgments, decrees, orders and sentences of the Court, such power shall, in relation to causes or matters occurring or arising in the Islands, be exercised by the Governor.

Governor

4.—(1) The Governor shall be the Governor of the Islands.

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(2) The power of the Governor to appoint a Deputy under Article 7 of the Letters Patent of the Colony of Fiji dated the second day of April, 1937, as from time to time amended, shall apply in relation to the powers and authorities vested in him in respect of the Islands as it applies to the powers and authorities vested in him in respect of Fiji.

(3) The Governor shall do all things belonging to his office and relating to the Islands in accordance with this Order, with such Instructions as may from time to time be given to him under Her Majesty's Sign Manual and Signet or through a Secretary of State and with such Orders in Council and other laws as may from time to time be in force in the Islands.

Power to make laws

5.—(1) It shall be lawful for the Governor to make laws for the peace, order and good government of the Islands.

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

(3) All laws made by the Governor in exercise of the powers conferred by this Order shall be published in such manner and at such place or places in the Islands as the Governor may from time to time direct.

(4) Every such law shall come into operation on the date on which it is published in accordance with the provisions of subsection (3) of this section, unless it shall be provided, either in such law or in some other enactment, that it shall come into operation on some other date, in which case it shall come into operation on that date.

(5) The date on which every such law is published in accordance with the provisions of subsection (3) of this section shall be notified in the Fiji Royal Gazette, and such notification shall be conclusive evidence as to the date and fact of such publication.

Disallowance of laws

6.—(1) 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.

(2) 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.

(3) Every law so disallowed shall cease to have effect as soon as notice of disallowance has been published as aforesaid ; and thereupon any enactment repealed or amended by, or in pursuance of, the law so disallowed shall have effect as if such law had not been made, and, subject thereto, the provisions of subsection (2) of section 38 of the Interpretation Act, 1889(a), shall apply to such disallowance as they apply to the repeal of an Act of Parliament.

Power to confer jurisdiction on Supreme Court of Fiji

7. The Governor may, by law made under the provisions of this Order, confer on the Supreme Court of Fiji such jurisdiction in respect of causes and matters occurring or arising in the Islands as might be conferred by Her Majesty in Council, and may make such provisions and regulations as the Governor may think fit respecting the exercise of any jurisdiction so conferred and respecting the enforcement and execution of the judgments, decrees, orders and sentences of the Supreme Court of Fiji made in the exercise of any such jurisdiction, and respecting appeals therefrom.

(a) 52 & 53 Vict. c. 63.

Governor authorized to appoint officers

8. The Governor may constitute all such judgeships and other 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.

Disciplinary powers

9. The Governor may, subject to the provisions of any law for the time being in force in the Islands and to such Instructions as may from time to time be given to him by Her Majesty through a Secretary of State, upon sufficient cause to him appearing, dismiss or suspend from the exercise of his office any person appointed by the Governor in exercise of the power conferred by section 8 of this Order, or, subject as aforesaid, may take such other disciplinary action as may seem to him desirable.

Official Stamp

10. There shall be an Official Stamp for the Islands. The Governor shall keep and use the Official Stamp for stamping all such documents as may by law require to be stamped therewith.

Pardon

11. When any offence has been committed for which an offender may be tried under or by virtue of this Order, the Governor may, as he shall see occasion, in Her Majesty's name and on Her Majesty's behalf, grant a pardon to any accomplice in such offence who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders if more than one ; and further may grant to any offender convicted of any such offence a pardon, either free or subject to lawful conditions, or any respite, either indefinite or for such period as the Governor may think fit, of the execution of any sentence passed on such offender, and may remit the whole or any part of such sentence or of any penalties or forfeitures otherwise due to Her Majesty.

F. J. Fernau.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The above Order in Council revokes the application of the Pacific Order in Council, 1893, as amended, to the Islands of Pitcairn, Henderson, Ducie and Oeno, subject to certain transitional provisions preserving the jurisdiction of the High Commissioner's Court under that Order in Council. The above Order in Council also makes the Governor of Fiji Governor of the Islands and empowers him to make laws for the peace, order and good government of the Islands, and by such laws to establish a court in and for the Islands and to confer jurisdiction on the Supreme Court of Fiji in respect of causes and matters occurring or arising in the Islands.