The New South Wales Interregnum
1897–1914

Following the 1897 Order in Council, Norfolk Island became a quasi-dependency of New South Wales, although its position was still seen as that of a separate colonial entity. The Governor of New South Wales was empowered to act on behalf of the Imperial Government, and overall administration became the responsibility of the New South Wales Department of Lands.

The 1896 report by Commissioners Carruthers and Oliver noted that there was a great deal of permissive occupancy, and that land grant records were often incomplete.¹

Over the next few years, rumbles of discontent continued as Islanders asserted their rights to all but a very limited number of houses and buildings. When new land laws were enacted in December 1899, many of those in residence were given the option of leasing houses or land which they claimed had really been granted to their ancestors in 1856. They again petitioned the Imperial authorities, laying claim to all lands on the Island, the houses on the Kingston Government Reserve, and the Norfolk Island Fund. This was referred back to the Governor of New South Wales, Sir Harry Rawson, who obtained a legal opinion from Edmund Barton, soon to become the first Prime Minister of Australia. Barton’s advice was that the only land granted to the residents was that listed in their deeds of grant, that all houses in the Government reserve were Crown property. He further advised that the Islanders had no authority over the Norfolk Island Fund, which was held under trustees appointed by the Secretary of State for the Colonies.
In 1900, the Norfolk Island community contributed to the Indian Famine Relief Fund and the Boer War Patriotic Fund, and several Norfolk Islanders volunteers had joined the Imperial Bushman Force. In the same year, the possibility that rats on ships coming from Sydney would carry the plague created considerable concern on the Island. Residents refused to allow goods or passengers to be unloaded, and local boat crews were reluctant to take the resident doctor out to inspect incoming ships. Correspondence from the New South Wales Deputy Administrator reflected official irritation that, while it was commendable that the Islanders saw themselves as part of the broader British hegemony, they had an unfortunate tendency to take an independent stand, without reference to proper authorities.²

On 18 October 1900, with Federation now on the horizon, another Order in Council confirmed the previous authority of New South Wales, with the understanding that, at some time in the future, responsibility for Norfolk Island would be transferred to the new federal authority. After Federation was achieved, negotiations towards implementing such a transfer were initiated by the British Government. In August 1902, the Governor of New South Wales sent a confidential coded message to the Governor-General requesting: ‘Would Your Excellency inform me whether the Federal Government would be willing to take over the Island should the Secretary of State agree’. This enquiry was conveyed to the Federal Government and Alfred Deakin, then Attorney General and Acting Prime Minister, responded that:³

I have the honour to inform Your Excellency that the telegram of the Governor of the State of NSW dated Sydney 7 August 1902 transmitted by your minute has received consideration. I shall be pleased if you will inform His Excellency Sir Harry Rawson that the Federal Government will be willing to take over Norfolk Island should the Secretary of State for the Colonies agree the terms of transfer to be decided later.

The British Colonial Secretary was delighted with Prime Minister Deakin’s positive response. Further advice from the Colonial Office
to the Governor General suggested various ways by which the transfer could best be effected. Commonwealth assent was necessary to extend the boundaries of the Commonwealth of Australia to include Norfolk Island. In November 1902, aware that this was only the first step in what were likely to be protracted negotiations, the Colonial Secretary outlined the preferred option of His Majesty’s Government.

It might however be more convenient if the Parliament were to pass an Act declaring the consent of the Commonwealth to the annexation of the island and at the same time enacting provisions for its Government, the coming into operation of these provisions being deferred until the annexation is completed.

While the British Government was clearly anxious to expedite the transfer, all sides were constrained by cumbersome protocols. Official communications between the Colonial Secretary, the Governor-General and the Governor of New South Wales were only the first steps to initiating action. Each Imperial representative had a view as to what information was right and proper to pass on to the politicians in his respective sphere. As elected representatives of the premier State, political leaders and departmental officials in New South Wales were often quick to resent what they saw as arrogant and premature assumptions of power by their Federal counterparts. Similarly, Federal politicians and bureaucrats were very conscious of their newly gained independence and sovereign status. In these circumstances, some official responses reflected the need to maintain respect for position and status on the one hand, and a desire to assert a new authority and control on the other.

Discussions over the current and future status of Norfolk Island also highlighted unresolved questions over unauthorised occupancy of buildings and land. Individual Islanders who had ignored notices to sign leases or face eviction became the subject of greater attention. Due to the somewhat curious situation of Norfolk Island as an interim dependency of New South Wales, the Governor of New South Wales informed the Governor-General that it was now
proposed that a Royal Commission on Land Matters should be appointed. There was no objection from the Commonwealth, as this was a problematic situation it could well do without. Prime Minister Barton, whose earlier legal opinion had been the justification for official action, informed the Governor-General that: ‘this Government would view with satisfaction any step taken by the Governor of New South Wales to settle this question, which has been the subject of so much unrest on the Island’.\(^5\)

A Royal Commission on Land Matters was appointed, with Alexander Oliver as Commissioner and Michael Vincent Murphy as executive officer and surveyor. Prior to the visit of the Commissioner, Deputy Administrator William Houston visited the Island and held a meeting with prominent residents. During this period, Murphy completed a detailed survey of the Island, identifying Crown Land and all verified land grants. This map, completed on 8 February 1904, was still in use in 1942, as the official War Office survey map of Norfolk Island. Murphy also made a detailed survey of all buildings in the Kingston area, including those claimed by islanders as belonging to them rather than the Crown. Oliver died shortly after completing his draft report, but a supplementary report by Houston and J.L. Watkins, the NSW Parliamentary Draftsman, became the catalyst for more direct legal and administrative intervention.\(^6\)

This led to a flurry of petitions and complaints from residents who were unwilling to accept the findings that they were now required to pay rent, albeit often nominal, for land or buildings which they had previously considered their own property. During 1905, Murphy, in conjunction with the Council President F. M. Nobbs, reported on the conditions and tenancy arrangements of all relevant buildings. Discussions with individual residents proceeded, with increasing dissatisfaction being expressed that the rights of the Islanders were being ignored. Attitudes hardened on both sides. The Governor of New South Wales demanded decisive action, and Murphy, now Officer in Charge of Norfolk Island Affairs, was the man in the
middle. In a report dated 20 February 1907, he described the background to a complaint from two local whaling companies who had refused to pay rent for the boat sheds they occupied, and were equally vehemently refusing to vacate the premises [See Appendix 5]. In a further despatch, dated 20 March, the Colonial Secretary informed the Governor that: ‘They should also be given to understand that your action has received the approval of His Majesty’s Government and that they are expected as loyal British subjects to accept the decision and to obey the law’. A number of residents continued to refuse to pay rent or sign interim agreements. They were finally evicted from their houses and other Government property. These actions have continued to rankle in the community’s collective memory. Some of those tasked with carrying out the evictions were local officials and the impact on community relationships was extremely divisive. Since that time, accusations of the impropriety and injustice of these evictions have been raised on numerous occasions, with the same passion and resentment as expressed in 1907. This has sometimes given the impression that these events took place in the immediate, rather than the more distant, past.

Given these problems it is understandable that the transfer of Norfolk Island to the Commonwealth was not vigorously pursued at Federal Cabinet level. In 1909, an attempt was made to resolve the matter and a Bill was introduced to the Australian Parliament. Atlee Hunt was now Secretary of the Department of External Affairs and Murphy, the Officer in Charge of Norfolk Island Affairs, was an old colleague from his early years in the New South Wales Lands Department. Their candid private correspondence showed the strength of existing tensions between the Governor of New South Wales and the Premier on the one hand, and the Commonwealth of Australia on the other.7

The Bill finally lapsed but there were lingering feelings that both sides had been arrogant and unbending. Nonetheless, negotiations continued and it was clearly inevitable that the Commonwealth would finally assume full control of Norfolk Island. In 1913, after
terms of office as governor in both Tasmania and Western Australia, Sir Gerald Strickland took over as Governor of New South Wales. He took the responsibility for Norfolk Island very seriously and was unwilling to give up any of his personal authority in the matter until all legal and other niceties had been fulfilled. On 25 April 1913, he notified the Colonial Secretary that William Houston had resigned as Deputy Administrator and he had appointed Michael Vincent Murphy as the Acting Deputy Administrator.

Should the Federal authorities not meet me at an early date as regards the transfer of Norfolk Island to the Commonwealth, I shall again confer with my Premier with a view to remodelling the administration in an endeavour to make the Island self-supporting.

In a number of confidential despatches outlining the current status of Norfolk Island, Strickland commented on the problematic relationship between the Government of New South Wales and the Commonwealth. He was concerned that Norfolk Island should receive the same free trade status, which now existed between the States in the new federal entity. He also concurred with the view of Lord Chelmsford that until the final transfer was completed, ‘the Commonwealth has no jurisdiction in the matter and that no act on the part of the Commonwealth can affect Norfolk Island’.

The removal of Australian customs and trade restrictions would benefit Norfolk Island, return it to its former status with New South Wales, and hopefully open up new markets. On the other hand, Federal authorities were concerned to ensure that the free flow of goods would not be accompanied by unrestricted migration.

Despite Strickland’s irritation with some Federal bureaucrats (and one cannot but surmise that Atlee Hunt may have been a prime offender), his main concern was to ensure that the transfer of Norfolk Island would be speedily effected. He was also aware that his predecessor, Lord Chelmsford, had become so exasperated with the Commonwealth approach that he had suggested that the question of New Zealand taking over Norfolk Island should be
reopened. Strickland did not agree with this course of action, as New South Wales was already providing financial support and public servants from New South Wales Departments were working on the Island.

Murphy’s appointment as Resident Chief Magistrate and Deputy Administrator was confirmed on 21 August 1913, ‘subject to disallowance or confirmation by the Secretary of State’. Shortly before Murphy left Sydney for Norfolk Island, Hunt sent him ‘in strict confidence’ a copy of the draft Norfolk Island Bill. But, as had happened so many times before, the Norfolk Island community were again bypassed in these protracted negotiations for their future. Some Islanders, including a number of new settlers who saw financial advantage in greater fiscal and political independence, continued to vehemently reject the proposition that the British Government was justified in ceding control of Norfolk Island to any other authority, since Queen Victoria had given it in perpetuity to the Pitcairners and their descendants.

As evidence provided to the 1976 Royal Commission demonstrated, these claims have persisted. Although the Report of this Royal Commission reaffirmed Barton’s earlier opinion that this was not the legal situation, it was noted that:10

In support of their claims they not only relied on the interpretation they and their legal advisers placed on relevant Imperial Acts and orders in Council, but also sought to establish that when the Pitcairners had been transferred to Norfolk Island in 1856, Queen Victoria gave Norfolk to them for themselves and their descendants to govern as they saw fit. They argued from this premise that the British Government acted unlawfully in committing the government of the Island first to the Governor of New South Wales in 1896 and second to the Commonwealth Parliament in 1914.

The same opinions were being presented with equal force in 1913. This meant that one of the interim Administrator’s major tasks was to try to help the community come to terms with the new
arrangements, and to maintain peace between the members of the Norfolk Island Executive Council. In addition to official and private communication with Sir Gerald Strickland, he was in constant contact with Atlee Hunt, as the Secretary of the Department of External Affairs was a key figure in the protracted negotiations.

The Minister for External Affairs, Patrick McMahon Glynn, was now guiding the Norfolk Island Bill through the final stages of its passage in Parliament. In addition to departmental documentation in support of the Bill, he sought the opinions of a number of church leaders and others who had spent time on Norfolk Island. One informant, Miss Gertrude Farr, provided him with several letters from friends on Norfolk Island, including one from C. C. R. Nobbs. Murphy had lent Nobbs the confidential copy of the Norfolk Island Bill which Hunt had sent across in August. In further discussions Murphy had also emphasised the benefits which the removal of trade barriers would bring by opening up new market opportunities in Australia.

In a letter to Gertrude Farr, Nobbs indicated he had been convinced by these arguments and saw the Commonwealth takeover as a positive move.11

Norfolk Island
13 October 1913

Dear Miss Gertrude,

I duly received your of 24th Sept. last and also a copy of Hansard dealing with the introduction of the Norfolk Island Bill into the Federal Parliament, I want to say at once how pleased I was to get it and to heartily thank you for sending it along; naturally it interests me very much, for although we have heard rumours that the new Parliament was about to deal with the matter still we have had no particulars. I have a copy of the Bill lent for perusal.

In my opinion, the proposal is a step in the right direction and if carried out, as outlined by the Minister for External Affairs, must
operate advantageously for the people as a whole. Under the provisions of the Bill I can see no reason why the resources of the Island should not be developed, and I fully anticipate a decided improvement in the near future of the conditions of living of the people. We have been so long accustomed to our present methods that it will take more or less time for the people (as a whole) to realise the altered conditions, but I think that when once the matter is accomplished and set in motion, it will come as a most agreeable surprise to those who are in doubt about the matter. So far as the rights of the people are concerned, in my opinion we need not fear anything in this respect. Your Commonwealth Government being a democratic one all such matters must be respected by them. Should the Bill be passed by both Houses, there would be an Administration Bill, introduced later on, the rights of the people would then be dealt with and must be safeguarded. I hope to be able to get any further information as to how the Federal Government are dealing with the matter.

I hope to send the Hats you require, later on. Mrs. Nobbs and the children are well and send kind regards as well as

Yours sincerely,

C.C.R. Nobbs

The expectation, expressed by Nobbs, that further legislation to protect the rights of Islanders would be enacted, was to prove unfounded. This may well have been the genesis of his implacable opposition to Murphy — a feeling that he had been duped into believing that his view of democracy was shared by the incoming authority. Nevertheless, this was a rare moment when Glynn, Hunt, Murphy and Nobbs were largely in harmony over the initial goal of achieving the final transition to Commonwealth control.

Given their different personal and professional backgrounds, it is not surprising that they would approach the new relationship with very dissimilar expectations. Before turning to examine the challenges they faced in the first years of the new administrative arrangements, the next chapter considers how their personalities and
life experiences influenced the way these four actors played their particular roles in the Norfolk Island/Commonwealth drama. It also provides an insight into how they were viewed by their contemporaries.

Endnotes

1 See NAA: CP697/42, ‘Records of Land Grants issued prior to and after 1896, August/September 1897, and British Parliamentary Papers ‘Norfolk Island – Correspondence relating to the Transfer of Norfolk Island to the Government of New South Wales, op. cit.

2 See NAA: A1 1915/16408, ‘Memorandum for the Minister for External Affairs from M. V. Murphy, 17 August 1915’. Further reports of Norfolk Island contributions to various relief funds, and concerns regarding the plague, are included in NAA: 697/41 1900 ‘Norfolk Island’.


4 NAA: CP697/16 Bundle 1 Volume 1, Despatch from Secretary of State, J. Chamberlain, 22 November 1902.


7 NLA: MS 52/20/1169-1224, Hunt papers.

8 Strickland was a strong supporter of Federation but his political tactlessness and autocratic approach eventually led to his recall in 1917. See G. P. Walsh, entry for Sir Gerald Strickland, Australian Dictionary of Biography, Volume 12:123-124, 1990.

9 NAA: B5/8 1913/1914, Despatch from the Governor of New South Wales to the Secretary of State, 21 August 1913.


11 NLA: MS 4653/3, Glynn dairies. Letter from Nobbs to Miss Gertrude Farr was copied into Glynn’s diary on 24 November 1913.
Portrait of Patrick McMahon Glynn, South Australian Federation Leader and MHR
PIC/7055, By permission of the National Library of Australia

Atlee Arthur Hunt c1901
MS1100 Box 2 Item 16, By permission of the National Library of Australia

Michael Vincent Murphy c1919
Obituary Photograph in Sydney Morning Herald 3rd July 1935
By permission of the National Library of Australia

Charles Nobbs
(taken from group photograph of 1921 Executive Council (1921 Norfolk Island Annual Report))