

# **Land Tenure in a Test Tube:**

## **The Case of Palmerston Atoll**

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Palmerston Atoll provides a rare example of a land tenure system which developed in isolation by persons with minimal knowledge of other tenure precedents. Whereas a hundred years ago all rights were claimed by just one man distinct rights have since emerged at ten separate levels.<sup>1</sup>

An effective claim to Palmerston was made by William Marsters on the grounds of long undisturbed possession and the investment of labour and capital. Today, rights are based primarily on inheritance from Marsters, through one or other of the three lineages which derived from his three wives to form the basic social division on the atoll today.<sup>2</sup> Other rights in the atoll are the sovereign rights of the governments of New Zealand and the Cook Islands.

The growth of the system is clear. For many years the atoll was worked as a single unit under Marsters's autocratic control. As resources were limited and their exploitation offered economic, social, or psychological advantages to persons with superior rights to necessary to share some of this rights with them and made laws for this purposes. After his death, disputes not provided for in Marsters's laws seem to have been dealt with on an ad hoc basis until their continuing occurrence led the head of the three lineages to lay down additional laws. With the increasing complexity of relations between men and land and the increase in the atoll's population, an increasingly complex system of land tenure evolved and continues to evolve. It is interesting that such a tiny population (95 at the time of first study but only 54 in 1984) living in such extreme isolation built a relatively complex system of tenure. The system which functions today is the product of the atoll's human history, which has been greatly conditioned by the physical and cultural context.

Palmerston is a very isolated, small atoll of the northern Cook Islands. The reef, about 7 miles from north to south and about 5 miles from east to west, covers about 3,600 acres, and the lagoon completely enclosed by reef, about 5,000 acres. Several shallow natural depressions in the reef provide narrow, and at times dangerous, passages into the lagoon for small boats. The total land area is only 357 acres spread over six main islets and a number of smaller islets and sandbanks. The islets are composed of coral rubble and sand and are of very limited fertility except where humus has developed a thin topsoil in the interior areas. Although rainfall averages 83 inches per year, water supply is limited by lack of storage, as the natural freshwater lens is quite small. Hurricanes strike with destructive force about once in

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a generation. Serious hurricanes destroy the main land-derived foods but do not greatly affect those from lagoon, reef, or sea.

By comparison with larger atolls, Palmerston's population density is not high.<sup>3</sup> The atoll was not inhabited at the time of European contact. The introduction of improved water and food storage facilities, radio and relief supplies has made it permanently habitable, but not for many people. Most islanders emigrate, and those who remain do so because of assumed material, social, or psychological disadvantages elsewhere.<sup>4</sup>

Throughout the history of the atoll various human inhabitants, as well as some non-residents, have tended to claim rights for themselves, at the expense of the rights of others, beyond those likely to give them material advantage. That is, they have manifested what is probably a universal human tendency to expand their physical area of influence. However, they have been willing to concede rights to others in return for control over them, superior status to them or some other advantage from them. This is exemplified in the strongly possessive attitudes toward some sandbanks that are only used for a few unimportant products that could just as easily be found elsewhere.

There are no written records or registers of land rights and the existing system apparently functions adequately without them. Shipping, mainly to Rarotonga, is erratic.

Land boundaries are most commonly marked by puka trees or by double rows of coconuts. One party owns each row, and the boundary is an unmarked line between them. With the exception of the settlement area, where rows of stones or lilies mark the boundaries, boundaries between the three lineages are straight lines running from the beach on the ocean side to the beach on the lagoon side. Boundaries within lineages are marked by artificial soil ridges in the case of garden pits,<sup>5</sup> and by stones, trees, and footpaths in the case of arrowroot plots and house sites. Individually held trees are notched or otherwise marked, but as marks are neither adequately standardized nor sufficiently clear, some confusion and petty dispute result.

Probably in part because of the technical difficulties of demarcation, limited resources, the beaches, reefs, and lagoon have never been subdivided and are not claimed by any particular segment of the population.

Resources suitable for human exploitation includes fish, shell-fish, crustaceans, seaweeds, turtles, coral, and other products of the reef, lagoon and ocean. The land grows a number of plants, mostly introduced by humans. Some seabirds nest on the atoll or rest there during migration; bosun birds settle from about July to December. Crabs are found, and turtles come to certain islets to lay their eggs. Pigs, fowls and dogs are domesticated.

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Most foods and raw materials are obtained or produced by the household which uses them. The exploitation of surplus beyond subsistence is limited by the environment, by the small quantities that are or could be produced by the long distance to markets and few shipping calls. Few products are economic to transport, let alone process, preserve and package under such circumstances.

Non-subsistence goods and services are either supplied free by the government (education and medical) or financed through the sale of copra, salaries and allowances from government employment for a few, gifts from absent relatives, friends, and well-wishers and after hurricanes, from relief organizations. There is a very limited and spasmodic sale of dried fish, beche-de-mer, live turtles, and turtle shells, as well as of a few artefacts of wood, coconut fibres, pandanus, and shell.

Apart from their own personal codes, values and expectations, the first persons on Palmerston were in a socio-cultural vacuum. The atoll belonged to no one and fell within no legal jurisdiction. The declaration of the British protectorate in 1888, annexation by New Zealand in 1901, and the establishment of the autonomous government of the Cook Islands in 1965 placed the atoll in an increasingly complex framework of law and culture.

The social pattern during most of the nineteenth century was under the authoritarian control of Marsters himself.<sup>6</sup> Following his death in 1899, however, a much more complex pattern developed. In so far as this related to land tenure, it is outlined in the following sections.

The total population as of 20 November 1959 was 95 of whom 27 belonged by descent or marriage to the “first family”, that is, the lineage which traces descent from the first of Marsters’s three wives; 38 to the “second family”; and 19 to the “third family”. The other 11 were from other islands but each was related to one of the three lineages. Fifty-six of the 95 were primary school children or infants, and only 15 were males over fifteen years of age. This indicates a high degree of out-migration by adult males.

### **The Acquisition of Rights**

In the early nineteenth century various Europeans visited and lived on Palmerston for short periods and in the 1850’s an Englishman named Jeffrey Strickland claimed ownership by sole occupation. He sold his rights to Captain Bowles who sold to John Brander. William Marsters arrived on the island on 8 July 1863, to supervise a few Tahitian labourers to exploit existing produce and plant more coconuts for Brander.

The rights of Brander, and later his heirs, and Marsters were in dispute for many years, but Marsters remained in possession. The British Crown exercised nominal jurisdiction over the atoll and granted leases and licences to uninhabited and unclaimed islands in the western Pacific. Marsters applied to the High Commission for the Western Pacific in Fiji for a lease over the atoll and was issued a temporary

lease on 24 July 1888, and on 23 May 1891 the High Commission granted Marsters a licence to occupy Palmerston for twenty-one years. Marsters claimed exclusive rights on the grounds of long exclusive possession and on the claim that he had planted 200,000 coconut plants at his own expense. The lease was replaced by a series of leases from the Cook Islands Administration for most of the time until 1954 when an act of the New Zealand Parliament vested permanently in the “Native inhabitants of the Island of Palmerston and their descendants” who were described as “the descendants of the said William Marsters”. This wording restricted the rights to those descendants, about 12 percent of the total, who were then resident, and to their descendants, whether resident or not, an undemarcated area of 10 acres was reserved for government use. In April 1965 when the Cook Islands became self-governing, new rights of control were created at that level. They have not been exercised to any significant degree.

Although Marsters won exclusive title vis-à-vis non-resident claimants (apart from the British Crown which he welcomed to guarantee his rights), his rights were challenged from within. He had three wives on Palmerston (all Polynesians from Penrhyn atoll) and children by all three, and descent from one or another wife—through the male line in cases where both parents are his descendants—provides the basis for the division of land and society on Palmerston today.

Marsters lived by supplying passing ships with fresh foods, firewood, salt port, dried fish and coconut oil, either for shipboard use or for resale. During the early years of his residence he employed islanders from Atiu and Penrhyn, but later used his own growing family as labour. Men were rostered to gather fish or other food to supply the whole population, for all lived in one settlement and ate together. Each of Marsters’s wives had a separate sleeping house, but all used the one eating house.

By the 1880s the provodore and salt-pork trades had died out, and copra became the main source of cash income. By this time Marsters’s sons were maturing and demanding a share of the income, so he gave each son half of the value of the copra the son made, but of that half he had to give one-third to his mother. Coconut palms were still planted by the whole group under the patriarch’s control, and copra was still made as and where he ordered. After a time, the sons formed themselves into three groups for copra making, each grouping comprising the resident issue of one wife plus adoptees. The custom of giving a one-third share to the mother continued until all three wives of William Marsters were dead.

When close to death, Marsters realised that the economic system could continue only if there was effective leadership. The absence of any other person with his unique status precluded a continued authoritarian structure, and the tensions between his three families made it unlikely that any high degree of joint action would be maintained. He accordingly decided that, after his death, the system of division of income from joint production should be replaced by a division of the land itself, and that his authoritarian powers should be replaced by more comprehensive laws.

Having gone to sea at an early age from his home city of Birmingham, Marsters is unlikely to have known much about English land tenure. His three wives, having left Penrhyn very young, probably knew little of its tenure system. Moreover, for the first 20 or so years it is unlikely that any thought was given to internal rights,

for Marsters ruled the island on authoritarian lines. Thus when faced with the necessity to make a tenure rule, he had no clear precedents to draw from. In any case, there would be limits to which external precedents are, even today, of quite limited relevance for Palmerston.

### **Distribution of land rights by area**

Until 1898 all land trees, crops, pigs, and poultry were regarded as being owned by the original William Marsters. In 1898 he went round Home Islet (where the village is located) and, by pace and compass, divided it into three portions of approximately equal area. He showed the lineages how the division should be done and left them to divide the other islets which they did soon after his death. Marsters declared the reef and lagoon to be the common property of all—no individual or lineage rights could be acquired in either.

After the death of William Marsters in 1899, the lands were worked as three separate units, though some years earlier the three lineages had begun to operate as distinct units for the making of copra and in dividing income.

The livestock were divided among the three lineages, but because of the absence of fences it was difficult to keep the three lots distinct. In William Marsters's time no pigs were penned, for he believed that they improved the soil by aerating it while rooting. Shortly after his death, however, a law adopted by the lineage heads, in council made it compulsory for all pigs to be penned on the land of the owning family. This law still applies.

William Marsters had nominated his eldest resident son to succeed him as head of the atoll but gave him no rights over the lands of the other lineages. As he was absent from the atoll for many years, there was considerable dispute as to whether any individual was head of the island or whether the heads of the three lineages exercised independent authority. This was not finally resolved until 1921 when the Resident Commissioner of the Cook Islands reaffirmed, administratively rather than legally, the head of the first lineage as head of the atoll. This principle has been followed since.

Hurricanes and wave action have altered the size and shape of some islets, but the law is that the original boundaries must remain. Additional land built up belongs to the lineage to who land it has been added. In a sense then, boundaries extend into the lagoon, but do not take effect unless the lagoon floor is raised above water level. The following case shows, however, that rights based on this premise are subordinated when someone has a clear claim to the land (mostly sand) concerned. In a unique case on Tom's islet a small area of land was washed by a storm to a new position in front of the land of another lineage. Even in the new position, however, it remains the property of the former lineage. It was explained that this was not new land but old land removed.

The vast majority of William Marsters's descendants now live away from the atoll. Several children of the three wives went to Penrhyn atoll where they were accorded rights in the lands of their mother's families. These rights were retained by

their descendants in Penrhyn to the present day. All other rights off the atoll have been acquired by marriage, inheritance to the next generation, permission, purchase or lease.<sup>7</sup> Marriage has been the most common avenue of access to land in other islands of the Cook group. No rights in this category belong to the clan as a whole or to all members of it—only to individuals or small descent groups.

### **Distribution of land rights by resources and functions**

Rights can be delimited by area, but various rights in the same area are differentiated by the resources exploited or the purpose served.

The largest land area is devoted to coconuts. Copra is the sole cash crop and coconuts are an important food. William Marsters ruled that coconut palms were to be owned in common by the lineage on whose land they grew. From that time copra was cut by each lineage as a whole, and the income shared equally by its men. In some cases, however, equal shares were given to each nuclear family, or other ad hoc arrangements were made.

In 1922, due to disagreement over the distribution of money, the lands of the second lineage were divided into six portions—one for each of the four sons and two daughters of William Marsters by his second wife. Neither of the daughters lived on the atoll, both having married on Aitutaki. By emigration, adoption and selective inheritance these six portions had come by 1959 to be held by the three resident sections of the second lineage. Three portions were held by the largest section of the lineage, comprising four resident nuclear families; two by the smallest; and only one by the second largest. One of the two nuclear families of this latter section took its copra shares from the less populous first lineage, with which it was linked by adoption. The two smaller section of the second lineage decided to work their lands, for copra making only, as a single unit. The history of the six original portions is still remembered, however, and periodic readjustments are likely to continue as matters of verbal negotiation rather than definitive settlement.

During 1945 and 1946 all three lineages pooled their copra and all resident descendants took equal shares of income. Thereafter the second lineage withdrew. The first and third lineages continued to work together and pooled not only the copra, but also the coconut lands, as the third lineage then contained only one working man and one nuclear family. When other members of the third lineage returned to Palmerston, it resumed its former status as a fully separate lineage. Various other arrangements at other times, and reasons for them, are described in the original article.

Coconuts belonging to the lineage are frequently placed under a *rahui* customary prohibition which precludes their use other than for copra making. For domestic purposes, however, lineage heads sometimes allow a ration of nuts, usually two or three per person once every two to seven days.

New Zealand's Protestant ethic influenced land utilization too—the 1941 lease required the islanders to keep the islets fully planted with coconuts and “use all

diligence in the making of copra....so that the output and sale there of will be as great as possible”.

The most important vegetable on the atoll the tuber *Cyrtosperma chamissionis*, must be grown in swampy conditions. The first tubers brought from Penrhyn and Manihiki, were planted in a small natural swamp. To extend the plantings, artificial swamps called pits were made by digging the sand to the water lens. This was a major undertaking as some pits had to be dug 10 feet before being filled with leaves, rotting wood and soil to form humus. Some digging was done by individuals but most by companies of men, usually within a lineage, which dug 10 feet square for each member in turn. The garden area was then regarded as the sole property of the individual, though in practice there are limits on disposition and on the period one can be absent without losing rights. The garden pit and plots within it are distinguishable from the garden itself, and rights to each may be held by different parties.<sup>8</sup>

The main area of garden pits is on Home Islet with those of the first and second lineages lying on their respective sides of the major boundary between them. The first lineage had no pits on other islets, but members of the second lineage had smaller pits on North Islet and Tom’s Islet. The third lineage had its main pits on Tom’s Islet and smaller pits on North Islet and Home Islet.

Other vegetable crops grown in these pits include taro, sweet potato and bananas.

The greater amount of labour, necessitating more frequent and prolonged visits, seems responsible for the fact that there is stronger personal identification with garden land, and more assertion of rights to it, than with any other land except house sites.

Arrowroot continues to be edible even if left unharvested, so it is an excellent emergency food. A person can clear and plant arrowroot on unallotted lineage land for himself. That land is spoken of as his for such time as he uses it for arrowroot, which takes three to five years to mature. It is usual not to harvest the whole crop, but just to lift the number of tubers required and replant in their place immediately. As a result, many owners have been in possession for many years. Arrowroot land is considered to be “owned” by the person who planted the arrowroot or by anyone to whom he has transferred it, though coconut palms on that land belong to the lineage as a whole. Thus, the term ownership in this context refers to very limited rights of use and disposal. The lack of precision in the nature and duration of either leaves room for manoeuvre and dispute and there are still some cases in conflict on this score in the 1950s.

Here again, right is gained by effort expended and crops planted and people affirmed in 1959 that the land belonged to that owner and he could plant any vegetable crops or food trees on it, excluding coconuts for copra which would belong to the whole lineage. How far this assertion has been tested in practice is not known.

There are several exceptions to the rule that coconut palms are owned in common by the lineage on whole land they grow.

*Birth trees.* When a child is born the placenta is buried, and a palm tree, usually a sweet coconut, is planted over it. Sometimes a second palm is planted later with the withered umbilical cord. These trees become the sole property of the child for whom they were planted, who can transfer them like other property. This custom probably originated with the Penrhyn wives, as birth trees are common in the Cook atolls. There is some confusion and dispute about ownership of many of the older birth palms—markings are irregular and memories uncertain.

*Feeding palms.* Earlier this century it was arranged that two coconut palms would be set aside for each man, woman and child on each of the main islets as feeding palms, which can be used at any time. Each person has an individual mark, an initial or initials, cut into such palms. Some people have extra feeding palms due to inheritance; some children have none allotted as yet. In the third lineage the share is 10 palms per man and the headman uses the share of his brother in New Zealand also. The third lineage allows members to climb palms in its section more freely, probably owing to its small numbers and the relative abundance of palms.

*Sweet coconuts.* One variety of coconut has an edible husk and is called the sweet nut. A sweet nut palm is the private property of the person who plants it. Although there is no limitation on planting them, people usually only plant sufficient for domestic use.

In all the above cases, at copra-making time, any unused nuts are available for making copra. That is, for home consumption they belong to the individual, but for copra making the product is the property of the lineage as a whole. The stated rule is that any member of the lineage can use those palms for copra-making, but in some cases only the owner of the palm concerned makes copra from it.

Other coconut palms, generally called sour nuts, are the property of the lineage on whose land they grow, irrespective of who plants them or where. The first lineage planted much of the land of the third lineage when most of the latter were away, but did not claim the palms, though it was alleged that they hoped that none of the third line would return and that they would get their lands.

Other trees include breadfruit, mangoes, limes, pawpaws and custard apples. Bananas, sugar cane, such pandanus as is planted (for weaving) and bamboo (for rods and brooms) can also be considered under this heading as the same rules apply to them. All belong to the person who plants them or inherits them. In the case of breadfruit several heirs may exercise joint rights. They must be planted in the *Cyrtosperma* patch or other land of the person who plants them, or on other lineage land with the permission of the lineage head. In the latter case the planter usually fences off a piece of land for his garden and either plants a hedge of hibiscus, coffee plant or lilies, or builds a wire fence around it.

Trees and plants which grow wild belong in common to members of the lineage on whose land they grow. This includes the shrub *nono*, the fruit of which is eaten when other foods are scarce, and plants used for medicine, firewood or

construction. *Tamanu* (*Callophylum*) native mahogany and other trees are used in the construction of houses, canoes, and furniture. Unless a tree is growing on someone's house site or garden, it can be used by anyone within the lineage. The fact that it is on someone's arrowroot land does not give that person the exclusive right to it. Some people, however, think that it does and that the owner of the land, if it is arrowroot land, should be asked for permission to use the tree. An individual can mark a tree for his exclusive use with the permission of the lineage if he wants to use it for making a canoe or building a house. It is not usual to go to another lineage for trees, though sometimes a particular tree is not available in one's own lineage land, in which case one must ask the head of the lineage on whose land it is growing. If he approves, then the tree is taken without payment. No charge in cash or kind should be made for any primary produce among Palmerston people.

Elders say that fresh produce for on-the-spot consumption on islets other than Home Islet, particularly coconuts for drinking, can be obtained only from the land of one's lineage. Many young people, on the other hand, say they can and do take them when and where they want for immediate consumption. In practice there is little the elders can do about it.

When a person wishes to erect a house, he selects a section of unused lineage land and obtains the approval of the lineage head. He generally plants a hedge round it or trees at the corners. It is for him to determine its size and shape. The house site belongs to the person who "cuts it out", and he can dispose of it within his lineage as with other property.

Within the limits imposed, garden pits, house sites and arrowroot land may be considered private property in that the principal rightholder may use them as he wishes and may transfer his rights in them to certain other people. Individual rights seem strongest in house sites, not quite so strong in gardens, and less strong in arrowroot lands.

### **Rights in fauna**

Every household has pigs and hens. Some geese and ducks are also kept. The pigs must be kept in pens on the land of their owners. Alternatively a piece of land may be cut out from the unallotted lineage lands, and this becomes known as the land of that person for such times as he uses it for his pig pen. There are three levels of right here: those to the land, those to the pen structure, and those to the pigs. They are in some instances held by different parties.

Poultry are not penned, but are fed daily, and each person has a particular place where he feeds his poultry.

Bosun birds migrate to the atoll about June or July and leave between October and January. It is not permissible to take their eggs and the birds themselves can be taken only at particular times decided on by the three lineage heads acting together. One picking a month is usual, and a common quote is one or two birds per person, irrespective of age or sex. Frigate birds and other birds shot on the wing belong to the person who shoots them, and he is permitted to go onto any land to do so.

All birds other than bosun birds belong to the lineage on whose land they are sitting and can be taken by any members of that lineage at any time. *Ngoio* are commonly taken when nesting—there is no control on time or numbers—but it is against the law to take eggs.

Swimming turtles may be taken by any person at any time, but turtle meat is considered to belong to everyone, and representatives of all lineages help to cut the meat and share it equally among all people. The catcher owns the shell and usually sells it to someone on the trading schooner or by taking it to Rarotonga. If a live turtle were sold to a passing ship, the catcher could keep all the proceeds for himself. Turtles on the beach, or laying eggs, may be taken by any person irrespective of whose land they are on. Until about 1959 it was against the law to take turtle eggs. There were so many breaches of this law, however, that it was decided that the matter was one for the head of the lineage on whose lands the eggs were found. If there are sufficient eggs taken, they are shared by all people on the atoll.

If a young turtle is caught, it belongs to the finder. He feeds it for a few months, and it is then consumed by his household and some close relatives. It is not shared more widely because of the labour invested in feeding it and because it is not big enough for atoll-wide distribution.

Fish may be taken at any time and belong to the person who catches them. Attempts to develop a commercial market in fish came to fruition in 1969 when the government ship *Ravakai* began to transport fish from Palmerston for sale in Rarotonga. Marketing has been erratic and dependent on shipping, the freezer and co-operation between suppliers.

Land crabs belong to the lineage on whose land they are found. However, it is usual for a special party to be made up and, with the permission of all three lineage heads, crabs are taken anywhere on a particular islet on a certain night. The catch is divided into household lots, with an equal share for each individual on the atoll.

### **Common lands and waters**

Legally, all land below high-water mark in the Cook Islands belongs to the government. The resident's stress, however, that they have unrestricted rights to the reef and lagoon. These are like the economists' "free good" in that none of their resources is in short supply, the supply cannot be changed by the people, and the main requirement for exploitation is labour. An interesting change occurred about 1955, when a limited market appeared for a short time when a schooner began to visit the atoll every three months to buy fish for sale in Rarotonga. The supply was relatively inexhaustible, but the market was scarce, as the ship's freezer was small. Accordingly, fishing for this purpose was done jointly by all residents and the payment divided equally.

In another instance, scarcity of a resource for which there was an unlimited market was leading to a rationing of access to the resource. Pearl shell had been planted in the lagoon in the 1950s, with the hope that harvesting would begin within a

few years. It was not feasible to divide the lagoon so it was intended to allow each man to dive for a quota of shell. But the planting experiment did not succeed.

It is difficult to define a precise legal high-water mark on beaches. The people regard bare sand as a beach and sand with vegetation as land. All beaches are regarded as common to all, but access to them is restricted by customary prohibitions. Such restrictions are never imposed on Home Islet though coconuts other than feeding nuts are placed under customary prohibition most of the time to protect the coconuts. In all other cases the whole islet, including the beach, is prohibited.

The three fish weirs in the lagoon are regarded as the common property of resident descendants. No new weirs have been built for decades. The weirs were used mainly for fish drives involving the whole atoll. But fish are so easily obtained by other means that there is no incentive to build new weirs, the construction and effective use of which necessitates organizing a large team of people. Large-scale fish-drives used to be easier using long nets of coconut fronds, but cutting too many fronds reduces the coconut crop. The weirs were particularly valuable after hurricanes when fronds were scarce, but Palmerston had not suffered major hurricane damage since 1942. The demise of fish weirs has been due to the post-war introduction of twine and nylon nets, the arrival in 1969 of cages of steel rods in which parrot fish can be stored alive for up to five days, and the action of freezers in 1972 and 1974.

The distinction the Palmerston people make between a bank and an islet seems to be based both on size and on the extent of soil and flora. The main distinction between the laws relating to the two categories seems to result from the fact that banks have minimal resources. Islets are spoken of as being owned by the three lineages severally, but most sand banks are not spoken of as being owned jointly; they are there for everyone to use. The two largest banks, rather significantly, are owned by particular lineages. It was originally thought that it was not worth planting banks with coconuts, but some years ago one lineage planted one of the unowned banks. Several banks were subsequently planted but had not come into bearing at the time of the 1959 study. Opinions then varied on rights to such banks, and constituted a possible source of future conflict. The recognition that the political value of the banks could only be realised by investing labour in tree culture seemed to be leading to the emergence of a notion of rights, or at least priorities in banks which could support useful stands of coconuts. But in fact only two palms on each bank had survived, and they were bearing poorly. So no one now claims those banks or the palms on them.”

Apart from the beaches and sand banks, the only common land on the atoll is the main road, a vaguely defined strip less than one quarter of a mile long through the settlement. All Home islet, except those areas in use for graves, gardens or buildings, is available for access to all persons at all times.

The people prefer that the government does not define the undemarcated 10 acres which it reserved for public purposes but that the Palmerston people decide where public utilities will go on lineage land. They regard the school, church, radio station and water catchment as being for public use, but with the landowning lineage holding a reversionary right. It is agreed that public utilities should go on the land of each lineage in turn, but there was some disagreement about the placement of the

school—some persons wanted the government to pay for the land as it did on other islands. Most, however, prefer the existing arrangement because the government could retaliate by defining its 10 acre entitlement, whereas at present it uses only about one acre in all.

The land on which the church stands has a special status. When asked who owned that land, people replied that it was “church” property. But it is within the land of the first lineage, and if the church building were removed, that lineage would almost certainly be accorded reversionary rights both by the residents and a Cook Islands Land Court. This consideration is irrelevant at present, for the people do not conceive of a community without a church.

Until 1905 the dead were all buried in the centre of the main islet. The area is still regarded as belonging to “all Palmerston people”. After 1905 each lineage set aside its own burial place near the village. By 1959 it was felt that this was taking up too much land near the village so that people were considering burying inland again, with each lineage having its own cemetery on its own land. While each lineage still has its own burial area there is a recent trend for people to bury their dead closer to home. In one case the deceased was buried under the floor of the house, and the headstone fixed to the adjacent wall.

### **Distribution of rights**

From an original single form, or level, of right holding by a single person, the increasing involvement of other groups and individuals has led, even on this remote and minute area of infertile land, to no less than 10 major kinds of rights, each held by different categories of institutions or persons. Although each kind of right is analytically distinct, they are probably not perceived in this way by the Palmerston people.

The rights of the United Kingdom under the protectorate passed to New Zealand in 1901 with its annexation of the Cook Islands, Palmerston became a part of New Zealand which controlled and made laws for the atoll and which reserved to itself, in the act of Islands became self-governing but within the boundaries of New Zealand. The reserved 10 acres now belongs theoretically to the government of Cook Islands, but it is not a matter of contention.

The Cook Islands Amendment Act, 1954, vested title to the atoll in those descendants of William Marsters who were then resident on it. That was only about 12 percent of his descendants, most having gone, and decades before in many cases to reside permanently elsewhere. According to the act, persons who were resident in 1954, but left afterwards retain their rights, as do their descendants.

The Palmerston community on Rarotonga was mainly responsible for getting the atoll vested in the Marsters people. They still act as informal agents for those on the atoll as well as accommodating visitors from Palmerston and sending gifts to the atoll. The leaders of this community assert unquestioned rights to return to Palmerston whenever they wish but base their claim more on sustaining criteria than on law. In practice both sets of criteria seem to be important. The legal limitation to residents, as of 1954, supports present residents in opposing others whom they do not

want, but the moral obligations to certain non-resident clan members are such that they do not deny entry to those who have been helpful. Some of these visit Palmerston every few years, and in 1959 one of them had lent his house site, garden plots, and personal trees to a non-Marsters government employee on the atoll.

Most advantages from the possession of land rights on Palmerston can only be enjoyed by those residing there. As described above, much is regarded as common property.

Residents who are not descendants of William Marsters include some wives of descendants; a few government staff members; occasional visitors like Commander Clark, who was shipwrecked there for nearly a year, or Captain Cambridge, who lived there irregularly in the 1940s; and the more numerous short-term friends or official visitors. Most long-term strangers are accorded benefits similar to those of the resident descendants, with the major psychological difference that they are there on sufferance, rather than by right. This is so even for officials who have every right to be there, for their legal rights would entitle them only to access to the lagoon, the beaches and the settlement and this would be unbearable in such isolation. In practice each is adopted into or associated with, one of the three lineages, but their status is significantly different from that of true lineage members. One government official was given the use of food trees and garden pits by a clan member who was leaving by the ship on which the official arrived. About a year later, the head of that lineage forbade him to use the land any longer, allegedly for not cooperating adequately, and he abandoned it. For 10 months he and his family had neither vegetables nor coconuts except for odd occasions when members of other lineages donated some. This is a powerful sanction indeed. Shares in copra are likewise conditional. Some who have no blood ties receive full shares, some partial shares, and some no shares.

The rights of the lineage are perhaps the most important with the exception of lands used only for copra production, however it is all subdivided further. Even copra land is subdivided by the second lineage and has in the past also been subdivided by the other lineages.

Within a decade or two after William Marsters divided the atoll between the three lineages, it was subdivided into equal shares within each lineage for each of William Marsters's sons and daughters, irrespective of the number of children each of them had. This caused a lot of problems, as some lineage heads took control of shares derived from non-resident siblings or from resident women. In 1959, the first and third lineage each worked as a unit in accordance with instructions of various visiting officials. These instructions have no legal validity, though residents assume they have. The second lineage continued to divide its copra land according to the shares of the six original children.

Most garden pits are dug by households but are usually spoken of in the name of the household head. Sometimes people refer to arrowroot lands belonging to households and sometimes to individuals. Cultivation and use is largely a household matter, and the question of proprietary rights seems to have little relevance or meaning apart from that of the household, except where divorce or separation occurs. Birth trees and feeding trees are the property of individuals, as are the few garden crops, but the distinction between individual, nuclear family and household is blurred.

The same applies to houses and house sites. A man wishing to build a new house consults the head of his lineage. All men of that family help to select and demarcate a plot for him and usually to build the house. The land so allocated is said to belong to the individual. If he goes away, he can transfer it to another member of his lineage. If he abandons it or dies without issue, it is said to revert to the lineage, but we are not aware of that happening in practice.

Rights of individuals may be distinguished by seniority, sex and descent. Heads of the three lineages are accorded a special status and are responsible for the allocation of land and for organizing its exploitation for copra-making particularly. The rights of household heads, as such, are relatively insignificant, being restricted to the use of crops belonging to household members. Women have a separate status from men. They can inherit land but, ideally at least, only while resident in the lineage concerned. As most marriages are exogamous, this greatly limits female inheritance. Also women living in lineages other than their born lineage, and viripatri-local marriage makes this usual, should not use lands to which they do have nominal rights.

The 1954 legislation states that only persons resident on the atoll in 1954, and their descendants, have any rights. Anyone who studies the law can see the situation clearly, but few if any have done so. The law is only one determinant of behaviour even though some proponents of diverse interpretations say that the law supports their view. Some members of the clan are effectively denied access to the atoll. William Marsters introduced the London Missionary Society, which was the only church until about 1930. It is significant in view of the prominence of the first lineage in atoll affairs, that the new denomination (Seventh Day Adventist) should find its main support in the third and to a lesser extent, in the second lineages. Great dissension developed, and all S.D.A. adherents resettled on Rarotonga and Aitutaki by order of the Resident Commissioner in answer to a request from the head of the first lineage. Many wished to return but this was refused, except to an aged man who was allowed to return on the informal understanding that he not practise his religion. A number of other individuals have been kept off the atoll by opposition from those in power on it, rather than by legal action.

The head of the first lineage maintained in 1959 that land rights had always been subject to residence. The rights of anyone who went away, apart from a short visit, the length of which he avoided specifying, were assumed by the head of that lineage and could be allocated by him as he thought fit. An absentee returning he said, was entitled to have full land rights reinstated, though not necessarily to the same plots. Some others maintained that a departing person could allocate his rights to whomsoever he or she wished. This seems to be the usual practice, the head of the lineage being informed of the arrangement with which he normally concurs. Many who leave with the intention of a short absence never return. They may write to say who should use their land, or the head of the lineage or lineage section may allocate it. The rights of absentees are a matter of conflicting interests for which no rules have yet been made, but the conflict is modified by distance, difficulty of access, the fact that the rights have no cash value and little non-cash value, and the declining population.

The intensity of attempts by absentees to maintain their rights, as well as the tacit acknowledgement of the continuation of such rights, is greatest with the land into which most labour has been invested: house sites, garden pits, and tree crops. Few who were not born on the atoll have ever returned there for any length of time except as wives of residents.

There is clear preference on the atoll for marriage within the Marsters clan. There were no instances of marriage of Marsters women to non-Marsters men at the time of my visit, and I am aware of only one earlier instance.

When a woman marries, she goes to live on her husband's land. The only exception in 1959 was that of the eldest daughter of the head of the first lineage. Her husband was the youngest of a junior member of a junior line tracing from a daughter in the third lineage. On marriage, a woman is supposed to relinquish all rights in her own lineage land. For most purposes this is followed in practice, but she sometimes continues to obtain fruit from personal trees, and she usually returns to her own lineage in the event of divorce or separation. In the event of remarriage, a divorcee will join her new husband's group, but cases noted show a wide variation in affiliation and inheritance by her previous children despite the law that they remains in her own lineage, and her children inherit land rights there unless paternity is acknowledged or the child is adopted.

Each lineage is supposed to be exogamous, but in 1959 two of the thirteen married couples were endogamous. All thirteen current marriages were between descendants of the original William Marsters with the exception of two whose wives came from other islands in the Cook Group

Adoption is frequent and occurs mainly within the lineage of the child and secondly within the child's mother's lineage. In the latter case the adoptee loses all rights in the father's property acquires the same rights in the adoptive family and lineage as if he had been born there. In practice neither the separation nor the incorporation seems to be absolute. Several cases were recorded where people have changed their lineage affiliation along adoption lines during adulthood. Scarcity of resources is sometimes a factor in adoption. One man born in the second lineage was adopted by his mother's lineage and has lived sometimes with them and sometimes in the second lineage. He lived just inside the boundary of the second lineage but adjacent to the first lineage. He got most of his food needs from land of the second lineage, but cut copra as a member of the first—copra is the scarce and valued resource. Adoption is an important mechanism of adjustment to material as well as social needs. Girls were said to be more in demand in adoption than boys, who were considered to be the cause of trouble, including land trouble.

### **Structure of property relations**

The laws which William Marsters wrote before his death laid a foundation for property relations thereafter. Some laws were modified and others added by the head of the first lineage after varying degrees of consultation with the heads of the other lineages or with the Resident Commissioner of the Cook Islands. All written laws were destroyed in the 1926 hurricane, and it is no longer possible to determine the precedents from which they were developed. Some minor features, such as birth trees

and the use of customary prohibitions, probably originated from the Penrhyn wives. Although the Bible may have contributed important emphases, particularly in relation to the dominant rights of fathers and the marginal rights of women, the most important determination of the laws was probably the physical structure of the atoll and the social and demographic structure of its people.

The atoll had no written laws from 1926 until 28 October 1949 when the Resident Commissioner came to settle some disputes arising from uncertainty as to the law. He assembled the elders and asked them to record the laws for the future internal government of the atoll. They were recorded by the commissioner's interpreter but are incomplete as the elders could not remember them all. Laws about wills, adoption, succession, and other matters were not recorded at the time, though they are believed to have been included in Marsters's original code and are spoken of as laws. The primary emphases in all the laws seem to be the control of aggression and the distribution of property. The Cook Islands Land Court, which has exclusive jurisdiction over land ownership and inheritance, has not yet deliberated problems relating to Palmerston and has accordingly not defined what shall constitute "native custom and usage" for the atoll.

Though not specifically mentioned in the written laws, *rahui* customary prohibition on resource use, are a vital control mechanism. There are two separate concepts involved: that of 'prohibition', which applies to owners as well as non-owners, and 'trespass', which applies to non-owners only. The concept of trespass on Palmerston has two aspects: place and purpose. On Home Islet, for example, the land itself is never under prohibition, and one is said to be free to walk anywhere, on the land of any family. One is not free, however, to go on the land of others with intent to disturb their gardens or to take their produce. For this reason people keep clear of the garden pits of others for a person found in the garden pit of another without good reason would probably be accused of the crime most frequently spoken of on the atoll, "mischieving," that is, the suspected causing of trouble.

Another vital principle is that of shares. Commodities which are in limited supply but not fixed in space are allocated by means of shares whereby each person, usually irrespective of age or sex, is entitled to an equal quantity. This applies to birds, eggs, and fish caught in atoll-wide drives. It also applies where the scarce resource is fixed but where it is difficult to prove its place of origin such as breadfruit and coconuts for drinking. Theft is minimized by restricting people's access to their own resource to certain times, and even then allowing each to take only a specific share.

Copra is usually made by families and the income shared equally to all family members including those unable to help make it, especially the very young, the very ill and the very old.

In addition to the laws, a number of underlying structural principles, never specifically spelled out but nevertheless fairly clear in every mind, pattern the distribution of land rights. The first question is whether one is or is not a descendant of William Marsters. If not, only marriage to a Marsters, government service, or such rare exceptional circumstances as shipwreck allow a person to even be on the atoll. But most of those descended from Marsters live elsewhere. To remain on Palmerston,

practice a descendant must have been born there, or be adopted by or be married to someone who was.

Status in relation to land on the atoll depends on whether a person is male or female. For men, it depends on whether he is Resident Agent, lineage head, household head, nuclear family head or single. Age is important, but it may be more appropriately included in a compound factor which may be called experience, which is an amalgam of age, energy, skills, travel and achievements. Age of itself means little for the several old men in poor health whose lives were not notable. Particularly in inheritance, where multiple choices are open, an almost entrepreneurial skill seems to lead some to acquire considerably larger shares than others.

The quality of leadership has been an important determinant of social organization in relation to land. William Marsters had autocratic control, but no subsequent individual has had his unique status as common progenitor, longest settler, lessee and possessor for a time as the unit of organization, but once the third generation children were adult it was too often challenged so that all lineages at various times made the household or other subdivision the unit of landworking and landholding.

Rights of all kinds are diminished by absence from the atoll, but the precise nature of the diminution is a matter of uncertainty and sometimes dispute. Acts of ownership are necessary for the perpetuation of rights to house sites and pigpen site, but these are not lost automatically when structures are no longer standing on the site. Rather, if a site has not been used for a time and the former holder shows no likelihood of returning, the area may be allocated to, or taken over by, a relative, usually by arrangement.

There are few written records to indicate the nature and extent of disputes involving property. Rules are only one factor in this. Influence in the form of social, official or economic status, numbers, location and kinship links is also important. If a person breaks a law relating to land (most commonly visiting or taking produce from one under prohibition or *rahui*), he is likely to be publicly criticized by the headman of his lineage or of the atoll. If the offence is serious or warnings go unheeded, he may be brought to court. The most common punishment is a few days' hard labour clearing paths or tidying the settlement area. It appears that the legal court machinery is not the main deterrent. During 1958-1959, at least one person had been denied shares and another given a reduced share in the copra money as punishment for disobeying the edicts of the lineage head concerning copra cutting. The threat to deny one's copra money is a very effective sanction. Eviction from the atoll is another powerful sanction for some, though not for the many young people who would enjoy the trip and who know that their labour is needed on the atoll. If a solution is not readily found, the offender may be fined or pressured into leaving the next ship. This is usually negotiated within the lineage. The more important day-to-day sanctions seem to lie in the desire to be accepted and to avoid criticism. These are far from fully effective, however, as inter-personal relations are in some instances such that individuals prefer to create tension rather than avoid it. Divided allegiance to national political parties has, in the 1970s and 1980s, exacerbated internal tensions.

Work patterns have had a considerable influence on the developing tenure system. Gardening, pig and poultry keeping and most fishing are done by households. Women collect reef foods, cook, make hats for sale and make plaited ware for domestic use. Men fish, climb coconut trees and build. Both sexes plant, cut copra and cooperate in some kind of fishing.

Copra cutting is usually done by households. In 1959, a limit was set in each lineage on the weight to be cut by each household each round. The limit was one hundred pounds per person in the household for the first round for all lineages but varied between lineages for later rounds—most commonly 50 pounds. Each household has its own drying racks and each lineage its copra shed. Such principles are still applied.

The three lineage heads must agree when to lift the 'prohibition' on entry to the coconut islets. Only one islet is worked in any one day to avoid the possibility of theft. Ideally, all lineages go together, but each works its own lands. As the area of planted land on each islet varies much more than the total area of land, and as the numbers in the lineages vary, the time taken by each lineage to cut the copra on any one islet varies considerably. When a lineage has collected all its nuts, it may change to another islet the next day. Then all lineages must work on that islet. Once a lineage has completed the round of all islets or has got a quota set, it must wait for the other two lineages to finish. Once all are finished, the second round starts. Finally, the last lineage goes and finishes up. But one member of each of the other lineages will accompany the last lineage to obviate theft. Although this is the law, it is not always carried out, especially due to temporary sickness. Sorting and bagging copra and loading the schooner is done by the three lineages separately.

Two features are quite striking: the leisurely pace of work, for subsistence can be gained in a very short time and copra is limited in supply, and the high proportion of the work undertaken by children.

The above rules and behaviour patterns are not absolute, though each determines behaviour in varying degrees. Age, sex and skills in personal negotiation modify their operation in practice. Nevertheless, formal rules may be more important than on other atolls in Polynesia; partly because Palmerston has a much smaller body of tradition to draw on. On Palmerston the laws seemed to be on everybody's lips, though few had read it. Behaviour relating to the rights of government and the three lineages always seemed to take cognisance of the local law and of local understandings about the government's law, but behaviour relating to the rights of individuals seemed to be conditioned much more by personal circumstances. Nevertheless, many personal circumstances were closely related to local laws about marriage, adoption, inheritance and so on.

### **Transfer of rights**

The laws of the Cook Islands forbid the sale of land except to the government for public purposes. Leases are permitted, but no land on Palmerston has been leased. Permissive use of land has been granted by the separate lineages and by the Marsters's clan as a whole to residents who are not members of the clan, but the

numbers are few and the rights accorded minimal. For practical purposes then, inheritance is the only means of transfer of land rights.

When asked in 1959 who could inherit land rights on Palmerston, a group of atoll dwellers said that only those born on the atoll could inherit rights, plus those adopted by or married to a resident, or given permission by the head of the lineage to which they belonged. The claims of every man now resident on the atoll come from a parent who is or who was also a resident. It was felt that those who had been away 'too long' should not be allowed back, but no time or rule is specified. There was a lack of agreement as to whether this matter was determined by the head of the atoll, the head of the lineage or the head of the family. In the actual cases noted, it had been negotiated individually with the lineage head. Several residents had earlier been absent for as long as 10 years, but in at least one case some persons considered that the former absentee should not have returned because he had been away 'too long'. Absence obviously diminishes one's rights and those not born on the atoll almost never acquire rights there. These principles still apply.

When a man thinks he is going to die, he should call together all his nuclear family, the head of the lineage and any of his issue or siblings who have married into other lineages. The dying person says what is to be done with his lands, house trees and other property, though most of these things are already known and have been taking shape for some time. The house will remain with other members of the household, and the children or others supporting him from the land will usually get the land. Rees can be allocated to various individuals. But if the important members of the lineage disagree with anything the dying person says, then it may be changed to accord with their view. Minority views not supported by the head of the lineage are usually disregarded.

The will should be written and three witnesses should sign it, but this is seldom done in practice, oral wills being more usual. Approximately equal provision should be made for resident children who have not married out or been adopted out. Special provision is commonly made for individual close relatives who have been particularly friendly or helpful. Thus, if a particular person has cared for a dying man during old age or a long final illness, it is proper to remember him with a share of land and trees. Provided he bequeaths within his lineage, the dying person seems to have considerable choice. One case was cited several times as an example of a bad will in which a man gave most of his lands and all his trees to his favourite grandchild. Though several members of the lineage, including his successor, thought him wrong in this, nobody objected and the grandson has the land and trees now. It may have been significant that the deceased was a lineage head and a strong personality.

Food trees and arrowroot can be, and often are, willed separately from land, but no replanting is permitted without the approval of the landowner.

Women have little to transmit. They are not regarded as landowners, and few have more than some food trees to will. A man's will is not supposed to take effect during his wife's lifetime, for William Marsters is said to have ruled and that a wife inherits the use of everything from her husband for her lifetime. In practice, the effect of this ruling varies depending on the age of the wife and children. Many older

women allow the will to take full effect and are thereafter supported by the beneficiaries.

Although the oral law says that one cannot will property outside one's lineage, it does occur in some cases where a beneficiary has marginal status, in more than one family either by uxorilocal residence, of which there was one case in 1959, or by adoption, which is common.

When land rights are willed, the lineage head is supposed to ensure that adequate provision has been made for all resident children of the testator and that the distribution is equitable. Nevertheless, it seems that decisions on transfer are not only a matter of rights, but also of relative influence. Examples of persons who died or left the atoll without resident issue show that lineage heads and forceful individuals often inherited at the expense of closer kin.

Even though the three lineages are based on descent from one or another of the three original mothers, descent and inheritance thereafter are universally stated to be patrilineal. However there are many exceptions. Though most adoption is within the lineage, many children have been adopted into other lineages, in which case they inherit mainly through that lineage. Children of divorced, separated or unmarried mothers sometimes inherit from them as do resident children whose fathers are not of the Marsters clan. But these cases are rare.

Land is sometimes lent. William Marsters laid down that no money shall pass between clan members for land or produce. For loans of garden plots, however, it is now considered appropriate that the donee make a small gift of produce to the donor.

All resident descendants are considered to have the right to remain and to transmit their rights to their progeny. There are no recognised preferences or selective processes to force or encourage any category of persons to leave the atoll or to remain. The data suggest, however, that selective processes to force or encourage any category of persons to leave the atoll or to remain. The data suggest, however, that selective processes have been at work, whether consciously or not. William Marsters had 17 children from his three wives, but all persons resident on the atoll in 1959 traced descent from only eight of them. Though many of the progeny of these eight lived elsewhere, none of the progeny of the other nine lived on Palmerston. Of the eight from whom descent was traced, four were men and four were women, but of the 84 resident descendants plus their wives, 71 traced their line to the four men and only 13 to the four women. Of the 13 who traced from women, a considerable but undeterminable, proportion traced from women who were divorced, separated or unmarried. The original children, all being half-siblings, had to seek spouses off the atoll. A number of men brought their wives to the atoll, but all the women who married out remained on the islands of their husbands.

A similar trend showed up in those persons claiming rights, either by descent or by marriage to a descendant, from persons of the second generation from William Marsters. The 81 persons concerned claimed these rights from nine men and two women, but 79 of the 81 claimed from the men and only two from the women.

The rigid division of land on Palmerston into three portions has remained constant. The lineage began at approximately the same size with the three wives having six, six and five children, respectively. However, the idiosyncrasies of human fertility have led to considerable flux in the size of lineages and, in the case of the second lineage, among lineage selections.

A fixed resource base combined with a fluctuating population of component groups requires flexibility, if opportunities are to be made more equal and production maximized. The mechanisms of flexibility on Palmerston are migration, adoption, wills, uxori-local marriage and ad hoc arrangements, usually rationalized in terms of matrilineal or quasi-adoptive links.

## **Conclusions**

Rights to use have become subdivided by both area and number of right holders more quickly than rights of a proprietary kind. Rights in consumer produce, especially foods, were shared equally on a communal basis until the death of William Marsters, then on a lineage basis, and now generally on a household basis though there are some individual rights such as in food trees. Rights in export produce were first autocratically controlled by William Marsters, who also determined the expenditure of income. In the latter part of his life, export produce was put on a share basis whereby the producer received part of the income from his products. It will be noted that rights in consumer produce fragmented much later than those in relation to export incomes. The fragmentation of land use rights led, after a period of close identification and labour investment, to the recognition of rights of a proprietary kind.

Each problem which has arisen has been resolved, usually after considerable trouble and experimentation, by the acceptance of a law or principle which defines rights with greater specificity and restriction. This is illustrated in Table 1.

The various levels at which different categories of rights on Palmerston are held are the product of a balance of forces. The processes tending toward the holding of rights by smaller units and by individuals include the following.

- (1) Demands for differential rights in accordance with differential effort, particularly where the results of differential effort were demonstrably different.
- (2) Disputes over rewards for land-based resources, whether the dispute was based on effort, inheritance or affiliation.
- (3) Wish to work in smaller rather than larger groups, the smaller being more closely tailored to individual needs and idiosyncrasies.
- (4) Defects in personal leadership.

*Table 1* Increasing diversification and precision of rights on Palmerston Atoll

<i>Period</i>	<i>Use Rights To consumer Produce</i>	<i>Exploitation Rights to Export Produce</i>	<i>Proprietary Rights to Capital Assets</i>
Pre-1870s 1870s-1899*	Communal Partly Communal	Communal Autocratic partly individual	Autocratic
Early 1900s	Communal below High water, Lineage on land, Individual for Tree tops	Partly lineage, partly individual	Communal below high water, road, and church Lineages for land, Individual for trees
Present	Communal below High water Lineage for Foraging and Hunting. Household for Garden crops Individual for Tree crops.	Partly lineage, partly individual	Communal below high water, road, and church, Lineage for lands, Household for gardens, Individual for trees

**\*William Marsters died in 1899**

The processes tending toward the holding of rights by larger units include the following:

- (1) The ethic of sharing and the feeling of common identity. William Marsters laid down, and the Bible is frequently quoted to reinforce the view, that Palmerston people are all one family and should work and share together.
- (2) The formal structure of leadership. The government has always supported the resident Agent (since self-government, called the Chief Administrative Officer), a post usually held by the head of the first lineage, as paramount. The existence of an atoll head, a head of each of the three lineages and of each household is accepted by all.
- (3) The tendency to suspect the motives of others when alone or in small groups leads to larger groupings than necessary to undertake almost

any activity on islets other than Home Islet, and is conducive to larger landholding units. If everyone were confident that people would not steal nuts or other supplies, it is likely that the islets would have been divided into individual or nuclear family units.

- (4) The fear of hurricanes, tsunami and erosion. These increase the lands of some, decrease others, and damage crops in some areas more than others. The allocation of a single area of land to each individual or nuclear family would leave them vulnerable to carrying all the losses. It would also deny people access to all islets but the one on which their land was located. On an atoll which already provides few places to go, this would further restrict a degree of movement which people obviously enjoy.

Several factors lead to preferences for intermediate groups. The vulnerability of the individual leads to the strengthening of units larger than the individual, but smaller than the atoll or even the lineage. One may get sick, old or leave the island temporarily. Most trust those whose identity and interests are more closely bound with their own. This lends cohesiveness to the sibling group, the nuclear family and the sections of the lineage. Because there are many islets, boats are essential. They can best be made and handled by more than one person, but the population of the whole atoll or even of the whole lineage would be far too large a unit for this purpose.

Copra is worked by intermediate groups, but it is difficult to determine whether it would be more or less efficiently worked by individuals or by the population as a whole. The present processes of gathering, husking, splitting and sun-drying can be done as efficiently by nuclear families as by work groups. In fact, households are the most usual copra-making groups. In fact, households are the most usual copra-making units as distinct from the unit holding the copra lands –the lineage.

## Notes

1. Ron Crocombe collected the basic data during a thirty-day visit to Palmerston in November and December 1959. Supplementary data was obtained from government files and from John Burland, who studied the history of the atoll and spent several months, there during 1960. The help and kindness of Ned Marsters and all members of the Marsters clan both on Palmerston and Rarotonga is acknowledged with sincere thanks. In 1984, Reverend William F.E. Marsters, himself a Palmerston Islander, checked and updated the earlier articles, which had been published as chapter 8 (pages 215-264) in the book *Land tenure in Oceania*, edited by Henry P Lundsgaarde, and published as A.S.A.O. monograph No.7 by the University Press of Hawaii, Honolulu, 1974.
2. The word *family* is used on Palmerston for what is here called lineages. As Palmerston people use the word Family to refer either to all of Marsters' descendants, or to the descendants of any wife, or subgroups of

such descendants, or for nuclear families. The descendants of any one of the three original wives, the most important divisions are referred to as lineages.

3. In 1964 the atoll had about 173 persons per square mile compared with an average of about 313 per square mile for other inhabited atolls of the northern Cooks, and 457 persons per square mile in the neighbouring Tokelau atolls. Emigration from Palmerston has dropped the density to below 100 per square mile in 1984.
4. Larger numbers of Marsters' descendants live on Rarotonga, Aitutaki, Penrhyn, Manihiki and Rakahanga. There are many in New Zealand, Australia, Tahiti and elsewhere. The total number of descendants from Marsters and his three wives was estimated from Mrs M. Paget's comprehensive genealogy to be about 800 in 1959, of whom only 95 lived on the atoll. The total today must be over 2,000.
5. The main crop grown is *Syrtosperma chamissonis*, a large cultivated tuber grown in brackish swamp in man-made garden pits.
6. This control seems to have been accepted in the earlier years, but it became increasingly necessary to reinforce it as he grew older and his sons reached manhood. This lonely man with several wives had to guard himself with dogs and a rifle. E sought the introduction of Christianity to restore peace to a community formerly without religion.
7. Persons resident on Palmerston whose mothers came from outside the atoll retain links with their mothers' kin, but the extent to which these links include land rights is seldom defined. In practice, the nature and extent of rights are likely to depend on supplementary ties, such as reciprocal gift giving, visiting or adoption of children, and particularly on need.
8. Thus one person may be spoken of as the owner of a pit or a plot within it but may allow another to plant a garden in some or all of it. Ideally, both parties should be of the same lineage, but there are some exceptions.