

Honourable Members, we are picking up our sitting this morning from the 21st of last month. We suspended at that time and we are to first of all commence with the prayer of the Legislative Assembly and then we will pick up our proceedings as that follows

PRAYER

Almighty God we humbly beseech Thee to vouchsafe Thy blessing upon this House, direct and prosper our deliberations to the advancement of Thy glory and the true welfare of the people of Norfolk Island, Amen

Honourable Members, to just elaborate the matter of picking up our suspended sitting, could I just also advise you that our broadcasting arrangements have decided not to play its part this morning, so the proceedings will be recorded as is the normal arrangement, but it will not be broadcast direct to air, but it will be rebroadcast at a later time once we have the arrangements back in place. If in fact we are able to fix up the difficulty then we will pick up the matter of broadcasting. Resuming our sitting Honourable Members, I firstly call on condolences

CONDOLENCES

MS NICHOLAS Thank you Mr Speaker, it is with regret that we record the passing of Rochelle Sybil Richards. Rochelle was born in Auckland on 14th April, 1961, the third child and second daughter of Gary and Eileen Richards. The family settled out at Bumboras on Norfolk Island in June 1965. Shell did her primary and secondary schooling at Norfolk Island Central school before going to Randwick Technical College in Sydney for Secretarial studies. After graduation, she returned to Norfolk to work with Norfolk Island Airlines as a Trainee Reservations Officer. Later she worked for four years with Norfolk Island Administration in the Accounts section. Between 1981 and 1986 Shell travelled extensively through Europe working in the UK for six months, and moving on to Greece and Turkey, going also to the United States of America and Canada. On her way back home Shell stopped off in Perth where she found herself living for the next 20 years working with various firms in Office Management and Accounts departments. Shell's illness was diagnosed in November 2001 and, following a brave battle, she passed away at the Norfolk Island Hospital on the 9th July 2004. Mr Speaker to Rochelle's family, her parents Gary and Eileen, her brother Wayne, and sisters Debra and Faye-Maree and their families, to her much treasured nieces and nephews Daniel, Laura, Benjamin and Roisin this house extends its deep sympathy.

Mr Speaker it is with deep regret that we record the death of Ivens Francois Buffett on Monday 19th July 2004. Toon was born in Sydney to Ivy Buffett, known as "Boomps" on the 30th November 1943. He was brought home to Norfolk and raised by his grandparents, Peter (Pa Pete) and Gertrude (Juntus) Buffett at their home at Longridge, and by Auntie Sheba and Uncle Francis Menghetti, in company with Spindles and Jap. Toon excelled at school, winning both Senior and Junior Queen Victoria scholarships allowing him to complete his schooling at Vaucluse High in Sydney. He went on to study accountancy whilst working with Qantas and then joined Accountancy firm Ure Lyneham in Sydney, transferring with the firm to Norfolk Island. In 1972 he became Registrar with the Administration of Norfolk Island and went on to become the first Islander to be appointed as Head of the Public Service in July 1997. Toon and Shelley were married in March 1975, their sons Todd and Leith were born and educated here. In November 2001 Toon was elected to this, the tenth Norfolk Island Legislative Assembly and was duly selected as Minister for Land & The Environment, making him The Honourable Ivens Buffett. Despite his honoured positions variously held, Toon was at heart a pastoralist, spending what time he could in his paddocks on the end of a mattock or with his animals. Mr Speaker, on behalf of Members of this House I express deepest sympathy to Shelley, Todd and Leith, to Toon's family and extended family, to his friends and work mates.

Mr Speaker, it is with regret that we record the passing of Sally Tighe at the Norfolk Island Hospital on Wednesday 21st July. Sally, Muriel Snell was born on the 10th March 1934, fourth daughter to Alfred and Polly Snell of Shortridge, sister to Hess, Edie, Frederick, Rose, Madeline, Eustace, Cora, Rangi, Lorna, Eileen and Richard. Sally attended the Norfolk Island Central School, completing her education and then spent some time away in New Zealand. On Sally's return to the island the Garrison Restaurant saw the beginning of Sally's career as an expert cook where she was spurred on by competition from her sister Rangi. Later, along with sister Eileen she operated a takeaway known as "Kar Snell" for a number of years. Aunt Em's Guesthouse was another stop along the way for Sally and taking over the lease for six years, fulfilling the fine traditions of kindness and hospitality originally set by Jean Mitchell. Sally was a Blues supporter, following her boys through their football and sporting activities. Her children Maurice, Winton, Willie, Barry (deceased), David, Michael and Mark were her life – then her twelve grandchildren Janene, Nicole, Warren, Stacey, Blake, Carissa, Zach, Jay, Rhys, Jessie, Keren and James. Sally was a self sacrificing, generous supporter and fund raiser for community groups, loved to make people happy and was popular and comfortable with all age groups. Mr Speaker to Sally's family, children and grandchildren, this House extends its sympathy.

MR SPEAKER Thank you Ms Nicholas. Honourable members as a mark of respect to the memory of the deceased, I invite you to stand for a period of silence please. Thank you Honourable members.

PETITIONS

Are there any petitions this morning?. There are no petitions.

GIVING OF NOTICES

There are no notices this morning.

QUESTIONS WITHOUT NOTICE

MR ROBINSON Mr Speaker one for the Chief Minister. Have you requested the Administrator to call a General Election yet and if so, when will it be

MR GARDNER Mr Speaker I have formally advised the Administrator and propose to make a brief statement on that at statement time if Mr Robinson is happy with that, I'm happy to wait until then

MR NOBBS Mr Speaker I ask the Minister for Finance, Minister is it correct that the community through the Norfolk Island Government Business Enterprises budgets is to construct a fire station valued at some \$400,000. Is that figure correct. What is proposed to be developed and could the Minister please provide details of such a massive expenditure of funds, if it is correct

MR DONALDSON Mr Speaker thank you. Yes it's correct that in the airport undertakings budget there is an amount of \$400,000 for a fire shed. This matter has not progressed to the drawing up of plans stage. It is into finalised. The money's there in preparation for further work to be done on the issue but there are no plans yet. If the plans don't go ahead it won't be spent obviously. If the plans do go ahead they will certainly come back to this House for discussion and contribution by the Members and to the costs and sitting of the fires service garage when it happens. The matter is not finalised, it's not a fait

accompli, it's not going to happen just because it's in the budget but it was seen as prudent to put it in the budget as an indicative cost that might be incurred this year

MR NOBBS Minister could you please be a bit more explicit as to, it is a wish list or what basis was the \$400,000 bearing in mind that this is part of the airport Government Business Enterprises and we are borrowing funds to redo the airport. Can you be a bit more explicit as to how this figure was settled on

MR DONALDSON Mr Speaker thank you. The figure was provided by officers of the Administration. Like I said it's a very early estimate. It was probably, or is certainly not a fixed or firm figure at the moment. It does relate to some new fire engines that we will be requiring in the immediate future and those I understand are too big for the current fire station and that's basically one of the main reasons why we had to build another fire station but like I said before, the fact that it's in the budget doesn't mean that it's approved in finality to go ahead. There will be a lot more discussion on it, before final approval is given

MR NOBBS Mr Speaker I ask the Chief Minister and Minister for Intergovernment Relations, Minister will you be making a statement in relation to the latest criticism of Norfolk Island by the Australia Parliaments Joint Standing Committee which copies of the report were sent to all Norfolk Island post boxes in recent weeks. Will you be making a statement

MR GARDNER Mr Speaker I hadn't proposed to make a statement at this time

MR NOBBS will there be any response to that report by the Norfolk Island Government

MR GARDNER Mr Speaker as we have in the past responded to reports of Joint Standing Committee's I would be of the strong belief that the Norfolk Island Government will be making a response to that and directing that to the Commonwealth Parliament through the office of the Minister for Territories

MR NOBBS So there will be a response or there may be a response Chief Minister

MR GARDNER there will be a response in accord with responses that have been provided to previous Joint Standing Committees

MS NICHOLAS Thank you Mr Speaker, three questions please. First an article in a publication "The Land" dated 5th August 2004 carries the headline "Crazy Ants found at Yamba" These are the ants, the presence of which, which resulted in a 30 percent drop in red crab numbers on Christmas Island and would undoubtedly threaten d here. As evidence of crazy ants in Yamba is of vital interest to those of us living on Norfolk Island, due to our shipping movements, will the Minister please advise what process has been put in place to ensure that ships loading cargo for Norfolk Island at Yamba do not carry either earwigs or crazy ants?

MR GARDNER Mr Speaker thank you. I've done some research into the matter of crazy ants in recent days and have received the following advise from officers of the Administration in relation to crazy ants in quarantine of shipping services to Norfolk Island to ensure that not just crazy ants and earwigs appear but any other insect pests on Norfolk Island. Mr Speaker the advise is as follows. The Administration officers met with

shipping representatives on the 17th May 2004 to review quarantine issues, especially with respect to earwig infestation in cargo handling inspection and treatment. As a result of that meeting and follow up discussions with Administration's Chief Quarantine Officer, cargo vessels sailing for Norfolk Island from Yamba are now fumigated prior to departure. Quarantine inspection of the vessel and cargo on arrival at Norfolk Island following fumigation has not detected the presence of any live insect pests. It is understood that on the 15th July 2004, the same day that the Norfolk Guardian sailed for Norfolk, a nest of yellow crazy ants was found at the Goodward Wharf Yamba, approximately 50 metres from an area in which some of the goods destined for Norfolk Island are held prior to loading. The Norfolk Guardian had been fumigated prior to departure and no live insect pests were detected during quarantine inspection on arrival by the Norfolk Island Quarantine Inspection Service. Mr Speaker the Norfolk Island Quarantine Inspection Service was advised on the 17th July 2004 about the crazy ants discovered in Yamba and is in continual contact with the New South Wales Department of Primary Industry and the Australian Quarantine Inspection Office in Coolangatta that is responsible for Yamba Port

MS NICHOLAS Thank you Mr Speaker, a further question to the Chief Minister please. In relation to the establishment of Exclusive Economic Zone & Continental Shelf Boundary. In a joint statement from relevant Ministers for Foreign Affairs in Australia and Foreign Affairs and Trade in New Zealand it was revealed that there has been agreement reached in respect of maritime boundaries between the two countries. What exactly does this agreement mean for Norfolk Island in respect of its fishing grounds and seabed resources: given that the statement speaks of "joint management of fish stocks shown to occur in the vicinity of the boundary" and "a single co-ordinated project for the development of any petroleum or mineral deposit that is found to extend across the boundary"; and, that the area known as "the box" is described as occupying that Exclusive Economic Zone

MR GARDNER Mr Speaker just to deal with the last matter first. I don't believe this statement refers to the Norfolk Island box contained in the exclusive economic zone. That is a matter that is something put in place well before the delimitation statement was announced however, dealing with the main parts of the question, in effect, nothing has changed in relation to Norfolk Island as far as its sea bed resources and fisheries are concerned. The question touches on joint management issues in the vicinity of the boundary. Those boundaries are either at 200 nautical miles from the coast of Norfolk Island or even further extended from that as part of the extension of the continental shelf surrounding Norfolk Island in Commonwealth waters. Therefore the joint management considerations are not an issue as far as Norfolk Island is concerned. The joint management of fisheries and the coordinated project developments for the extraction of petroleum and minerals are commonplace and commonsense approaches taken between negotiating, neighboring and adjacent states. Mr Speaker the benefits of any resources which may be found in those areas are usually shared with the state and or territory jurisdiction in whose waters those resources are to be found and in the Australian context those examples of that are Bass Strait and the benefits that would flow to the State of Tasmania and Victoria, the Timor Gap measures where the benefits would flow to the Northern Territory and to the North West shelf of Western Australia where there are benefits enjoyed by that state from their oil and gas fields and north west shelf off Western Australia. Even though the resources in the exclusive economic zone around Norfolk Island have not been quantified or identified at this stage, there's been a lot of speculation about petroleum resources and certainly fisheries stocks in those areas, and the figures that have been provided to date by the Commonwealth in relation to fisheries in particular seem to demonstrate that it costs more to maintain and monitor fishing activities within the exclusive economic zone surrounding Norfolk Island than the benefits going from the catches within those areas and certainly there has been no exploration, no drilling, and no gathering of any

petroleum or mineral resources around the exclusive economic zone around Norfolk Island and so that is unquantified and unable to provide any facts or figures, however, as I've already indicated where those arrangements do exist in other Australian waters there are direct benefits that flow to those states or territories where there is development of those resources

MS NICHOLAS Thank you Mr Speaker, I would like to address a question to the Minister for Finance and it is an issue of community interest. Minister, do you or do you not intend to prevent the operation of the service currently operated by NIDS, Norfolk Island Data Services and if you don't intend making such a statement, why not

MR DONALDSON Mr Speaker I really need to seek some clarification on that question. NIDS or Norfolk Island Data Services is an internet provider

MR BROWN Mr Speaker could I raise a point of order. It is important that questions in this place be raised for the purpose of providing community information and not for the purpose of pursuing a private desire to facilitate the continuation or prosperance of an individual organization. Could we be assured that this question is not being asked for the purpose of something other than the duties of the questioner as a Members of this House

SPEAKER Mr Brown as I hear the question at this moment, I am really not able to say or interpret that there is any personal proposal being brought forward and I think that's where it stands at this moment

MS NICHOLAS Thank you Mr Speaker, certainly not. I believe that this is of significant interest, particularly to the business sector on Norfolk Island. They are anxious. They need to know

SPEAKER Yes, thank you Ms Nicholas. You have raised your question. I will now turn to the appropriate Minister that he might respond to it

MR DONALDSON Thank you. I wonder if I might turn to Ms Nicholas to repeat the question please

MS NICHOLAS Certainly. Do you Minister intend or do you not intend to prevent the operation of the service currently offered by Norfolk Island Data Services

MR DONALDSON Mr Speaker, that's what I started to answer before. It's certainly not my intention to prevent the service operated by Norfolk Island Data Services to continue to be operated. The service operated by Norfolk Island Data Services is many and varied. They are an internet service provider that sell equipment, they sell computers and a whole lot of things but I think the whole thrust of the question revolve around whether they are allowed to continue to operate the satellite dish independent of the REACH satellite dish or the Norfolk Island telecom satellite dish and whether they are allowed to continue to operate their wireless internet service. Both those questions are good questions. I don't know the answers to them but they will be decided on merit. That merit question will be decided on public interest issues. I don't know the answer to it yet. I can't give a definitive answer except it will be a fair approach taken to it to give NIDS an opportunity to put their case forward and argue their case in the public interest. One more service operator I forgot to mention is probably the main service Ms Nicholas is talking about is the provision of voice over internet protocols to their customers. That allows the customers to make overseas calls at the cost of \$2 to \$3j per hour rather than the similar charge per minute offered by

Telecom. Once again that's a public interest issue and must be decided for public interest matters when the time arises. That time hasn't come yet

MR NOBBS Mr Speaker a supplementary question if I may. I ask the Minister for Finance in relation to telecommunication, isn't it a fact that in the Telecommunications Act 1992 which is freely available to anybody who wishes to read it that the aim of this act and I'll just quote it, is to specify that telecommunications the operations of which are to be reserved to the Administration. Is that not correct Minister

MR DONALDSON Mr Speaker I'll fall short of giving a legal opinion, I know that's not my role or responsibility to do that but the Act does refer to the reserved rights of the Administration. It goes on to disclose reserved rights

MR NOBBS Mr Speaker Point of Order. I don't think reading an Act is giving a legal opinion is it, because there must be a lot of lawyers around

SPEAKER Yes Mr Nobbs. You've asked your question so please give Mr Donaldson an opportunity to respond to it

MR DONALDSON Mr Speaker I'll continue with the answer thank you. The Act certainly does give reserved rights to the Administration. The philosophy of the original act was that telecommunications generally were reserved for the Administration and the Act achieved this by reserving reserved line links to the Administration they were an integral part of any telecommunications system being operated in 1992 when that Act came into place. Since then there have been changes in technology. The Act hasn't kept up with those changes in technology and the Act as I understand it at the moment doesn't specifically prevent certain satellite transmissions from being conducted by parties other than the Administration. The intention was to reserve telecommunications for the Administration but there seems to be a need to modernize the Act and that's the amendments coming through later today to modernize the Act and to put it beyond doubt that satellite communications are the reserved right to the Administration along with lined links being a reserved right to the Administration. There is also in the amendment coming forward later to day provision for individual private operators to be licensed to operate their own dish type line links and virtually to continue operating and once as I answered to the previous question, the answer to that hasn't been decided yet. It will be something that will be decided on merit and public interest

MR NOBBS Madam Deputy Speaker I ask the Minister for Education, Minister do you recall that last year at the July meeting I asked what effect will measures announced by the New South Wales Government were they to ensure that teachers who return from administrative to cold face teaching creating major savings, I ask what savings have been made in the context of Norfolk Island with this proposal

MR D BUFFETT Madam Deputy Speaker, I do recall this being raised and I think at the time there was no discernable flow on effect in Norfolk Island but I think given the time frame between then and now it would be wise for me to make some further enquiries to see if that situation remains and I will undertake to do that

MR NOBBS Madam Deputy Speaker can I add a second part. Was this arrangement part of recently completed arrangements for salary increases for teachers in New South Wales and if it was, did the Norfolk Island teachers receive increase

MR D BUFFETT Madam Deputy Speaker, could I just make one interim comment but I certainly could include that in my examination. Could I just say that in terms

of the teachers salaries arrangements, it is not a matter in which the Norfolk Island Government normally become involved in the detail of that. That happens in New South Wales notwithstanding that there may be a flow of effect to teachers who are here. I will enquire about those matters in which I undertook to do so but I just wanted to clarify that the Norfolk Island Government has not been a player in determining whether or no any of those things might have been granted to teachers in the wider sense within the New South Wales system

MR NOBBS Madam Deputy Speaker I ask the Minister for Finance I understand that you are responsible for aircraft here, will the Minister be making a statement in relation to the ultralight aircraft which was buzzing around the island and creating a lot of disturbance and if not, will he state the Norfolk Island Government's position on the importation and the continued operation of the aircraft once it's repaired please

MR DONALDSON Madam Deputy Speaker, it had been my intention to give some information on the ultralight aircraft at this sitting. I had sought information from the Public Service as to the current status of activities there and whether the plane is going to be repaired and what time frame it is going to be repaired in but for the benefit of those listening there's been a fair bit of flack received or criticism from what was deemed to be excessive activity of the Ultralights a couple of weekends ago when it was in the air continually, it was taking off and landing continually and it was appearing to be flying before the 1000 threshold that it can't fly below. I just point out that that weekend we had an instructor over here and the 11 members of the syndicate were trying to get their flying hours up so that they could get their endorsement on the license. That's not a typical weekend. We can't expect that sort of activity in future. As for the continued operation of the ultralight I think Mr Nobbs is referring to whether or not permission is required to bring in the parts to repair the ultralight after it had its crash landing on the runway. It is certainly not by intention to prohibit the importation of parts to repair the ultralight. I don't believe we have that authority under the Customs Act. The Customs Act talks importation of ultralight being a prohibited import without the assent or consent of the Administrator. It doesn't talk about parts, whether that part is a sparkplug or a wing part. It probably doesn't really matter

MR BROWN Madam Deputy Speaker, I direct this question to the Minister for Finance, is the Minister aware that the community was disturbed by the operation of the particular ultralight aircraft prior to its crash. Is the Minister aware that these aircraft crash in other places on a fairly regular basis, what action does the Minister propose to take to avoid it crashing in the future and injuring innocent members of the community as distinct from those who may choose to put their lives at risk by attempting to fly in it and finally does the Minister take the view that training is an adequate excuse for the breach of any obligation in any area in Norfolk Island

MR DONALDSON Madam Deputy Speaker, like I just said a minute ago I am aware that people on the island were disturbed about the activities of the ultralight in that weekend. I think it would have been a different case had it not been a training weekend where people were getting their licenses, had it been just one or two flyovers, something that happens with the Cessna that's here at the moment. That's my expectation as to the usage of the ultralight once people get their license, is that it will be seen a lot less in the sky. As to crashing, Civil Aviation Safety Authority has control over ultralight and licensing and airworthiness certificates and things like that. Although I do have a concern and I would be very upset obviously if it crashed on property or people in Norfolk Island. That's something that I haven't attempted to exercise any authority over nor will I intend to do so. As for the training that's happening in the last weekend begin a breach of the undertakings or the restrictions places on the ultralight it says in the restrictions that have been placed on

them it says that they are allowed to fly at less than 1000 when doing circuits for training. That is a specific part of their conditions that they have to abide by and I understand that they have been abiding by those conditions under those circumstances of training for their license

MRS JACK Madam Deputy Speaker, supplementary thank you. Minister consider this crash has occurred and no-one expected it, have people investigated the chances of another crash on the runway before or just after a plane has come in or is due to leave. What are the chances. What is the holdup to our tourist industry with this machine

MR DONALDSON Madam Deputy Speaker, I'm not sure how to answer that question have people investigated the chances of a crash happening again on the airstrip and holding up tourist planes or damaging our tourist industry. It's my believe that, that crash was not a one in a million but a one in a very long odds of it happening. It's an acceptable risk in the airline industry for those willing to fly Ultralights. As far as damaging the tourist industry in holding up the landing of a commercial plane I can't comment on that

MRS JACK Madam Deputy Speaker, you say it seems an acceptable risk for those flying it, but is it an acceptable risk for the community to bear the brunt of such an accident

MR DONALDSON I didn't say that I see it as an acceptable risk for those flying it, I say those flying it see it as an acceptable risk for themselves, that they might be involved in an emergency or crash landing. That's part of the risk they take with their sport. It's a bit like motocross, car racing, skateboarding, a whole host of things. People take these risks for the enjoyment of their sport. That is part and parcel of life

MR BROWN Madam Deputy Speaker, Minister having regard to your attitude to risk, can you advise whether you would support an application from the clay target club to conduct its shoots in Burnt Pine rather than go all the way to Anson Bay on the basis that they all know that there's a risk they might hit someone but you think it's fine

MR DONALDSON Madam Deputy Speaker, I think the answer to that is obvious it's a ludicrous question. There is no way that people can discharge firearms in Burnt Pint and have anybody say that, that's an acceptable risk

MR NOBBS Madam Deputy Speaker I ask the Minister for Health, the Smoking Act has been passed. Can the Minister please explain what is the Government's smoking policy given that there have been considerable complaints of inactivity and indecision in relation to the provisions of the legislation

DEPUTY SPEAKER Just before you commence Minister you may like to be advised members that we are broadcasting thank you

MR D BUFFETT Madam Deputy Speaker, thank you. In terms of the Tobacco Legislation we have promulgated the legislation. We have moved to the stage of appointment of inspectors. There have been various delegations under the provisions of the legislation so that various processes can take place. We are at the stage now of being able to assess applications that are made under the provisions of the legislation including for exemptions in certain areas, applications for licenses and various other things. I'm just confirming that the provisions to tackle all of those things are in place. I do understand that in terms of various applications both to apply for licenses and to apply for exemptions from the provisions of the legislation are being examined by inspectors and inspections are in the

process of taking place. I am not sure at this time and I would need to just check on this particular piece Madam Deputy Speaker as to whether decisions have been taken in respect to all of the applications at this movement. I rather suspect that, that stage has not been reached but I have emphasized to inspectors that we should endeavour to expedite the applications that are put to us so that people will know how they stand in respect of those applications. I think that is probably a summary of the overall situation. I do know Madam Deputy Speaker that there are some areas of dissatisfaction amongst principally I have heard from various clubs in which some have reached the stage of implementing some processes and some may have applications that have not yet been responded to. I just wanted to emphasize that I have asked inspectors to expenditure applications so that people will know exactly where they stand

MR BROWN Madam Deputy Speaker, I direct this question to the Minister for Health. Minister are you aware that some people have chosen to comply with the smoking legislation that was passed by this House, can you explain why it is that you are allowing some to ignore the law while others are abiding by their obligation to comply with it and when will you get off the fence and make a decision to prosecute those who are choosing to act contrary to this legislation

MR D BUFFETT Madam Deputy Speaker, I'm not too sure that I want to necessarily respond to the aggressive part of that particular question but I do want to make it plain that we do have a policy that has been endorsed by members of the Assembly about how tobacco smoking should be pursued or not pursued in the community and we have introduced legislation so that those policies might be pursued. We are now going through a process of implementing those policies by having inspectors and by having people who will visit various premises to which this legislation might relate. Now obviously we want to as quickly as possible bring people to an understanding as to what can and what cannot be done and to enforce those arrangements. I think it needs to be fairly said, we have not wanted to necessarily put areas out of business by trying to say that there are unreasonable demands and the trap will fall forthwith but I need to exploit that there has been a significant period of many months of warning about this matter and so those who are not complying will need to comply and the inspectoral arrangements are designed to identify those who are not complying and to ensure therefore we have processes that can take those factors to a proper conclusion. Whether that be by saying that they do now comply or that they don't comply, and there are penalties if people do not comply

MR BROWN Madam Deputy Speaker, again to the Minister for Health. Can the Minister advise whether it is intended that everyone will be required to comply with this smoking legislation and if so, why is the Minister allowing some organizations to refuse to comply

MR D BUFFETT Madam Deputy Speaker, I endeavored to point out that we have inspectors who will inspect to ensure that the processes are followed by those who have the appropriate premises and if they are not complying, then there are processes that one needs to go through in addressing that matter

MR BROWN Madam Deputy Speaker, a final question. Will the Minister undertake to confirm to his inspectors that they are at liberty to launch prosecutions against anyone choosing to ignore the existing tobacco legislation

MR D BUFFETT Madam Deputy Speaker, the inspectors are aware that those provisions are available to them now

MR BROWN Madam Deputy Speaker, I'm wondering if the Minister will answer the question. Will the Minister communicate directly to those inspectors in order to remove any notion which they might hold that the Minister is not willing to allow them to enforce the legislation

MR D BUFFETT Yes, I think I need to make it clear that it is not a matter of the Minister not wanting people to enforce the legislation and that is the implication to the question and I refute that. Now the inspectors if in fact they are of a certain view, I can certainly give clarification to that, if that's what Mr Brown is seeking

MR BROWN Madam Deputy Speaker, that's what I'm asking. There appears to be a very significant misunderstanding on the part of the inspectors

MRS JACK Madam Deputy Speaker, thank you. I ask the Minister for Tourism, Minister in the last couple of months, several letters have appeared in the local newspaper signed and dealing with concerns over the Tourist Bureau. I'm just wondering if you have considered any of these concerns and ask the General Manager and or Chairman of the board to deal with these concerns

MR D BUFFETT Madam Deputy Speaker, people will know that... was there a reference to letters in the newspaper. Is that what's being referred to. Madam Deputy Speaker I think everyone will recognize that in terms of letters to the newspaper locally there is a significant mix or such letters. Some are serious, some are jocular, some are jousting matches, and a whole range of arrangements. I have taken the view that if people have a serious area to raise that needs the attention of the Minister then they will communicate that to the Minister. Writing to the newspaper and expecting the Minister to pick the matter up is not a course that I have normally followed

MR BROWN May I ask a supplementary question. Bearing in mind that the Minister has just advised that he does not propose to take notice of letters in the newspaper, can he advise whether he will assure the community that he will promptly respond to letters sent directly to him

MR D BUFFETT Madam Deputy Speaker, letters that are sent to Minister and indeed to many areas, sometimes can be quite easily responded to. Sometimes they need significant research and whether or no one can make a speedy response depends upon the content. Certainly I get a lot of letters, I certainly get a lot of letters from Mr Brown...

MR BROWN to which you don't bother replying

MR D BUFFETT and indeed many of them are ones that require significant amount of research. Some of them one wonders why one needs to enter into a lot of those arrangements, but nevertheless, Mr Brown is a Member of the Legislative Assembly and is entitled to responses. Sometimes those responses take significant time to be able to give a substantive response. My normal course is to try and say I've received your letter and it may take some time to respond. That is the normal course. Whether that's followed on every occasion I may be caught up on, but that's the normal course

MR BROWN I direct this question to the executive Member with responsibility for the Public Service. Minister when will the community be provided with a detailed statement in relation to a letter which was widely distributed on the island close to six months ago from a group Residents Against Corruption on Norfolk Island

MR D BUFFETT Madam Deputy Speaker, this particular matter has received a significant amount of attention by the head of the Public Service and by a number of his senior officers and the Chief Executive Officer has had discussions over a period of time with both myself and briefing all Members of the Legislative Assembly about what really needs to be an ethics programme within the Norfolk Island Public Service. In other words, how does one handle, and how does one handle satisfactorily various areas of complaint that occur from time to time and areas of complaint will occur. It's an inevitable arrangement in any service, particularly one in the size of the Public Service in Norfolk Island. Until fairly recently we did not have a defined programme of how complaints were to be handled and this is made more difficult, the looking at of situations such as the letter to which Mr Brown referred. However of more recent times there has been put into place an ethics programme and policies developed. In fact I circulated to all Members I think on Monday of this week a paper which set out how complaints may be handled and indeed gave some statistics about complaints that have been received during the last few months. The process to brief Members about that particular process is not yet complete because at that time I undertook to ask a senior officer of the service to also come and talk to Members and walk through the processes that have been undertaken with those particular more recent complaints and for emphasis how the process works. Now that is a significant increase on how things can be handled. The letter to which Mr Brown referred has been processed and examined in the context of that programme and when we have a further briefing by an officer of the service who has been designated if I remember the term correctly, the public officer and is therefore the person who can be the contact both for the public and for officers of the service in terms of complaints and once that area is tidy it will certainly be publicized so that people will have a channel in which they may pursue their complaints such as that outlines in the letter. I think its useful for me to say that the process is able to look at complaints whether they are identified from individual people or whether they are anonymous and brought forward fin an anonymous situation. The letter to which Mr Brown referred is a group of complaints made anonymously

MR NOBBS Could I add a supplementary to that please. Minister you are obviously aware that the initial paragraph in that letter referred to some concerns with the Legislative Assembly. What has been done in your role as Speaker or maybe through the Chief Minister to ascertain the validity or otherwise of that particular statement

MR D BUFFETT Madam Deputy Speaker, I mentioned an ethics programme in terms of looking at complaints. I think I can fairly point to legislation that is proposed on the Notice Paper at present in terms of Members interests and the like which is a response to one area of complaint and that's the one that's been identified in the conversation just now, and there are others that have been raised also. In other words in the areas of Membership of the Legislative Assembly there are programmes to endeavour that ethical conduct is pursued and there is some legislative framework in where there is some reinforcement that, that should happen

MR NOBBS after all that, has there been a response to the allegations in the first few lines of that letter by the Legislative Assembly

MR D BUFFETT I don't recall a response being made in a public sense

MR BROWN Madam Deputy Speaker I direct this supplementary question to the Minister with responsibility for the Public Service. Minister if no detailed public statement is to be made, can one assume that you are advising the community that a full investigation of all the allegations made by the Residents Against Corruption on Norfolk Island Group has been made and that you are satisfied that not a single one of those allegations contained a skerrick of truth

into my colleague, the Minister for Finance's portfolio responsibilities. Maybe I could direct the question to him

MR DONALDSON No I can't contribute anything more. If Mr Nobbs could give me a copy of the question I will take it on notice for the subsequent sitting or happy to research and provide the information in between sittings

PRESENTATION OF PAPERS

MR GARDNER Madam Deputy Speaker, under subsection 31(4) of the Legal Aid Act 1995 and in accordance with clause 12 of the Memorandum of Understanding between the Commonwealth of Australia and Norfolk Island I now lay before the Legislative Assembly a report addressing the matters specified in that subsection being a report of the Legal Aid Advisory Committee for the period 1 January 2004 to 30 June 2004 and relating to its activities for that period. Also all recommendations of the Committee that have been accepted in a statement of reasons for the non acceptance of recommendations. 3. no legal assistance has been provided to a body corporate and also the report encloses a summary of the financial records of the fund in relation to that period. I table the report complying with those requirements

MR BROWN I move that the report be noted. Madam Deputy Speaker I will be interested to read the report. There are issues in relation to legal aid which I believe are extremely relevant, for example, it is my understanding that the Norfolk Island Government has ceased its contributions to the Legal Aid Fund and I question whether as a result the Commonwealth has either ceased its contribution or has indicated an intention to do so. These are matters which in time could prove to be of a very significant nature for the Norfolk Island public pursue and to enable proper debate I indicate that I wish to move that the debate be adjourned and resumption of debate be made an order of the day for a subsequent day of sitting, after the Chief Minister has said whatever words of wisdom he has available

MR GARDNER Madam Deputy Speaker, usually when I table a report of the Legal Aid Advisory Committee on the six monthly basis I do read into Hansard the report of that committee which touches on some of those matters that Mr Brown has alluded to and principally the review of our legal aid scheme on Norfolk Island. Mr Brown has certainly made reference to the level of contributions. As all Members would be aware the advice that I provided to the Commonwealth in relation to the review of the legal aid scheme on Norfolk Island had proposed that the ceiling for contributions be raised from a figure of what I believe to be \$250,000 to a level of \$400,000. Currently Madam Deputy Speaker the reserves of the Legal Aid Fund are in excess of \$400,000 and under the terms of the Memorandum of Understanding between the Commonwealth and Norfolk Island Government as it currently stands there is no binding requirement on either the Commonwealth or the Norfolk Island Government to contribute once the ceiling under the current Memorandum of Understanding of \$250,000 has been surpassed. There is a mechanism that when the figure in the reserves of the Legal Aid Fund drop below the \$250,000 that the contribution picks up again and binds both parties to continue with contributions. Madam Deputy Speaker we are still awaiting a response from the Commonwealth in relation to the proposal to amend the Memorandum of Understanding and also our own legislation to make the scheme more workable on Norfolk Island and until that happens we cannot progress any further the matters that are under consideration as part of that process. It is heavily reliant upon the Commonwealth agreeing to those changes as they have been proposed and endorsed by Members of this Legislative Assembly however Madam Deputy Speaker I'm quite happy to have further debate on this matter and I'm

certainly sure that Mr Brown will provide me with a number of issues that he would like me to cover obviously when we resume debate on this matter at the next sitting

MR BROWN Madam Deputy Speaker, just prior to moving the adjournment could I ask the Chief Minister if he could confirm for the benefit of Senator Lightfoot, Senator Hogg and others who will be listening via their Norfolk Island agent, that the legal aid difficulties at present are actually caused by the Commonwealth's failure to respond to approaches from the Norfolk Island Government. Is this the case?

MR GARDNER Madam Deputy Speaker, I'm happy to respond to that. That is absolutely the case. We have done everything in our power on Norfolk Island that we can do to encourage a revamp and a review of the legal aid system and the provision of legal aid to people on Norfolk Island and Mr Brown is quite correct. The hurdle is currently the Commonwealth

MR BROWN Your Honour, if you are listening this is a terrible situation and with the greatest of respect it is most important that Senators Lightfoot and Hogg and made aware of this situation before they continue criticising the Norfolk Island Government for failures at their own level. I move the adjournment

DEPUTY SPEAKER Thank you. The motions seeks to adjourn debate on the question that the paper be noted and that it be made an order of the day for a subsequent day of sitting

QUESTION PUT
AGREED

The ayes have it thank you, that motion is adjourned

MR DONALDSON Madam Deputy Speaker, I table the revenue fund financial indicators for the year ended 30th June 2004. they are indicators, they are not the final financial statements. The financial statements take a bit more refinement than the indicators but I'm pleased at this stage to say that the indications are that the revenue fund should finish this year with a surplus of about \$1m. that \$1m doesn't take into account an additional \$540,000 being the value of a legacy or bequest we got from the Cec Barkman estate. The reason for the improvement on budget, we actually budgeted for \$177,000 deficit. It was savings in quite a few areas of expenditure that did not rise to their budgeted amount and I congratulate the service on being thrifty with their expenditure. Just in summary we have to wait until the financial statements are actually prepared and audited before we get the final picture but it is emerging that the revenue fund has got about \$1m surplus this year, thank you and I table the papers and move that they be noted

MR GARDNER Madam Deputy Speaker, at the May and June

tape 3 end

Tape 4 begin

MR GARDNER Madam Deputy Speaker, at the May and June sittings of this House I was concerned I think at the trend that seemed to be appearing that we were going to end up with a fairly significant surplus in our budgetary arrangements for the last financial year. To join with the Minister for Finance partially and congratulating the Public Service on maybe being careful with expenditure however I am somewhat dismayed that

after all of the efforts that both members of the Public Service and members of the Legislative Assembly have made to ensure that we meet or put in place a budget that is to cater for the needs of this community for a twelve month period that we have failed to properly expend the moneys that have been put forward and I know that there are some reasons for that. Some of them relate to the supply of crushed rock, some of them relate to staff shortages and some of the other problems that are faced in day to day activities within the Administration but I am disappointed that we have such a significant surplus when really all that demonstrates to me is that we have not been able to deliver on the programmes that we wanted to put in place and I would encourage in this financial year that a lot more care and attention is put to ensuring that we do abide by the undertakings that we are giving to this community as far as the responsible delivery of services and expenditure of public funds on Norfolk Island is concerned

MR BROWN Madam Deputy Speaker, I would like to echo the words of the Chief Minister. It is no achievement of pride that we've been able to spend the wages bill quite okay but have allowed the infrastructure of the island to continue to deteriorate and have not attended to the various capital requirements which as the Chief Minister said we undertook to comply with. We charge people taxes. We charge them a lot of money for their electricity and their telephone calls so that dividends can be paid to the revenue fund. We Charge them a hellova lot of money to come and go at the airport and it's simply not satisfactory that we sit back and pat ourselves on the shoulders that we've managed to pay the wages but done very little else. I think that's something that we should be ashamed not pat our shoulders. I think it's something of which we should be ashamed, not proud, thank you

DEPUTY SPEAKER NICHOLAS Is there further debate? The question is that the Paper be noted.

QUESTION PUT
AGREED

The Paper is noted. Are there further Papers

MR GARDNER Madam Deputy Speaker, in relation to a question from you in relation to the delimitation of maritime boundaries between Australia and New Zealand I table a number of documents. One is a joint statement of both the Australian Foreign Minister the Hon Alexander Downer MP and the New Zealand Minister for Foreign Affairs and Trade the Hon Phil Gough MP in relation to the signing of a treaty between the Governments of Australia and New Zealand establishing certain exclusive economic zone and continental shelf boundaries. Madam Deputy Speaker attached to that document is another document which is a background information document on the history and the processes of the delimitation talks and also included in that number of documents is the text of the treaty itself that has been signed between Australia and New Zealand in relation to those boundaries. In moving that the paper be noted I would also like to say that the process has been underway since 1999 when the respective Prime Minister's of both those countries sought to delimit the maritime boundaries between those two nations and also commend the Chief Minister of the time who I believe was Mr Ron Nobbs, for so actively pursuing Norfolk Island's involvement in the participation in those talks between Australia and New Zealand to ensure that the interests of Norfolk Island as far as the exclusive economic zone around Norfolk Island and the extended continental shelf as part of the extension of the continental shelf emanating from Norfolk Island were protected and those interests were continued to be maintained in relation to the agreement and the final treaty. That treaty will be ratified under those respective countries legislation. There is a process then for it to be ratified at the United Nations level under the United Nations conventions of

the Laws of the Sea. I understand that Australia will be submitting its proposal later on this year and New Zealand is scheduled to submit its proposal to the United Nations sometime later in the year 2006. I table those papers Madam Deputy Speaker

DEPUTY SPEAKER NICHOLAS Is there further debate? The question is that the Paper be noted.

QUESTION PUT
AGREED

The Paper is noted. Are there further Papers

MR DONALDSON Madam Deputy Speaker, I table a paper detailing the virements that have been made between 30th April 2004 and 20th June 2004. the requirement to table this paper is found in section 32B of the Public Moneys Act and I just point out one more time that the virementing of funds between votes does not in any way increase the expenditure approval it just reallocates internal approvals and I table those list of virements

Madam Deputy Speaker in accordance with established p0olicy I table the travel expenditure reports for the period 4th February to 20th May 2004. This report gives details of the travel allowance and airfare paid for Administration staff and Legislative Assembly members for international travel. Copies of this report were circulated to Members of the Legislative Assembly in July

MR D BUFFETT Madam Deputy Speaker, I would like to table the inbound passenger statistics to Norfolk Island . these stats are for the completed year 2003/04 and includes the first month of July in the period 2004/05. could I just make mention that the figures that I am now putting on the table are a very marginal adjustment of figures that were circulated informally at an earlier time so there is a bundle here that is sufficient for each Member for the Legislative Assembly. The marginal adjustments Madam Deputy Speaker is for the year that we've just concluded, 2003/04 there is a total number of 38,317 for that year. The marginal adjustment which is just the matter of some 100 or so on the figure that you had earlier seen, now places that particular year that we've just concluded as the second year in terms of volume of visitors to Norfolk Island. The best year that we've experienced in terms of volume was the year 2000/01 with a total of 40,221 and the second year is 38,317 which is the year that has just concluded. Notwithstanding the overall total of people who have visited the island I make emphasis that it's not only the total number it is also the yield and the spending capacity of visitors that are important to the Norfolk Island community as well. I table those statistics Madam Deputy Speaker

Madam Deputy Speaker I also table two sets of regulations. One is the Firearms Amendment Regulation 2004 and I table those. They are in fact regulations that provide firearms arrangements in terms of the Norfolk Island airport and the other is the Sale of Tobacco Regulations 2004 which are elaboration on the fee for sale of tobacco and signs in terms of vending machines and in smoke free areas.

STATEMENTS

Are there Statements of an official nature?

MR D BUFFETT Madam Deputy Speaker, I thank you for the first call in statements because I would like to emphasise that in this month of August the Legislative Assembly celebrates the 25th anniversary of its inauguration and we commenced the process to self government in 1979 and an essential component was the establishment of

the island's representative parliament. This Legislative Assembly./the Island has really made enormous strides in both establishing and strengthening this as a parliamentary institution and also we have made advances determining our own affairs and at times it must be said Madam Deputy Speaker against some quite enormous odds and many have devoted energy and expertise to this advancement. To mark this 25th anniversary we are in our next week to observe a ceremonial sitting of the parliament and we have invited the Minister who is the Honourable Jim Lloyd and Mrs Lloyd to be present and we have been very fortunate that the architect of self Government for Norfolk Island the Honourable R J Ellicott QC, a former minister has accepted an invitation to share the occasion with us and we are delighted about that and former Members have also been asked to attend and be included in the process. Notwithstanding that we had a hiccup with our broadcasting this morning, the proceedings to which I've referred will be broadcast. I mentioned that the Speaker will host a reception for representatives of the Norfolk Island community and there is planned that a grove of trees will be planted by Members and former Members and some further press information will go into the Norfolk Islander this weekend but a prelude of a 25th Anniversary Sitting next week Madam Deputy Speaker

MR GARDNER Madam Deputy Speaker, on the 27th July and following a request of the Members of the Legislative Assembly I communicated to His Honour the Administrator in the company of the Speaker the Members' desire to seek a general election to be held in the latter half of October this year. On Friday the 6th August 2004 I formally advised the Administrator of Norfolk Island that he determine Wednesday the 20th October 2004 as the date for the purpose of holding a general election to elect Members to the 11th Legislative Assembly of Norfolk Island. I have received agreement in principle from the office of the Administrator and I expect a Writ to be issued by the Administrator for the purpose of calling a general election on Norfolk Island in the very near future. In relation to that and as I indicated earlier this morning in relation to a question from I think, Mr Nobbs, it is important to set out the legislative programme and remaining priorities for the term of this Legislative Assembly and I table an indicative list of matters to be finalised in the remaining weeks which is in accord with the established practice of Legislative Assembly's on Norfolk Island to continue their business up until such time as a general election is held and in order to provide for the peace, order and good Government of the people of Norfolk Island up to the commencement of the 11th Legislative Assembly of Norfolk Island. Also in relation to that matter and legislative arrangements, I touch on the portfolio responsibilities of the executive Members of the Legislative Assembly of Norfolk Island following the untimely death of our colleague Minister Ivens Buffett, his portfolio responsibilities with the full support of Members of the Legislative Assembly have been redistributed between myself as Chief Minister and Minister for Intergovernment Relations and the Honourable David Buffett, Minister for Community Services and Tourism. That list has been distributed widely to the office of the Administrator, the offices of the Public Service of Norfolk Island and I would propose to be printed in the newspaper and I too table that list in this House today as a public document so that people are aware of the various portfolio responsibilities of the executive Members for the duration and remainder of the term of this Legislative Assembly

MR NOBBS Madam Deputy Speaker I move that the Statement be noted please

DEPUTY SPEAKER The question is that the Statement be noted

MR NOBBS Madam Deputy Speaker the Minister has just referred to the upcoming election. I don't think he covered the necessity for a by-election and the proposal was then put to the Members that we don't go to a by-election but have a full election which was agreed to fully I believe and then the date was set. My personal view and I just want it recorded now that once an Assembly has made a decision to go to an election

that they should go to that election as soon as possible and that will still allow some several weeks in which whatever is required to be administered, would be administered by the current Legislative Assembly before an election and I just wanted that to be recorded. I believe that we should go actually to a full election ASAP, as soon as a decision was taken and that decision was taken some two weeks ago from memory, thank you Madam Deputy Speaker

DEPUTY SPEAKER NICHOLAS Is there further debate? The question is that the Statement be noted.

QUESTION PUT
AGREED

The Statement is noted. Are there any further Statements

MR GARDNER Madam Deputy Speaker, thank you. Just a brief Statement to be made in relation to my recent attendance at the Standing Committee of Attorney Generals held in Adelaide last week. I was very pleased that the meeting of the Attorney's from the States and Territories in Australia and including the Commonwealth Attorney General and Minister for Justice recognized the passing of our colleague the Honourable Ivens Buffett MLA and passed on words of condolence to the community and Members of the Legislative Assembly in our loss and I was very pleased to be in attendance and be able to receive the condolences from that group of persons. Madam Deputy Speaker also on behalf of the Minister for Police I had discussion with Minister Chris Ellison, the Minister responsible for the AFP on various policing matters on Norfolk Island and legal issues pertaining to the custody of persons on Norfolk Island and the efforts that have been made by the Australian Federal Police in recent matters and occurrences on Norfolk Island extending back to the Janelle Patton matter and thanking him on behalf of the Norfolk Island Government for his continued interest and provision of resources to facilitate the ongoing investigations in relation to that matter and others since. Madam Deputy Speaker in the agenda of the Standing Committee of Attorney's General there were a number of matters pertinent to Norfolk Island in which we are already moving or already have a very keen interest in and hence our continued need to attend such a forum. Those matters deal with uniform evidence laws across the Commonwealth also arrangements that have been put in place between states and territories of Australia which will facilitate the transfer of prisoners between various jurisdictions. The preparation and implementation of model laws to facilitate legal professions across the Commonwealth and New Zealand and also the preparation and discussion on model uniform defamation laws across the Commonwealth and New Zealand. They are always of interest and it's important that our offices and from time to time as we do, the executive Member responsible for those matters attend those to be involved in discussion because some of those changes that take place within the Commonwealth sphere and the New Zealand sphere ultimately do end up impacting on Norfolk Island and Madam Deputy Speaker we were also during the Standing Committee of Attorney Generals provided with a full update and briefing from ASIO in relation to terrorism threats both regionally and internationally. It was a very useful briefing to attend, thank you

DEPUTY SPEAKER Thank you Chief Minister. Are there further Statements? No. Then we move on

MESSAGE FROM THE OFFICE OF THE ADMINISTRATOR – NO 32

Honourable Members, I have received the following message from the Office of the Administrator being Message No. 32 advising that on 30th June 2004 pursuant to section 21 of the Norfolk Island Act 1979 I declared my assent to the following, Appropriation Act 2004-

2005 (Act No 9 of 2004), Enactments Reprinting Amendment Act 2004 (Act No 10 of 2004), Building Amendment Act 2004 (Act No 11 of 2004). The message is dated the 30th June 2004 and is signed Grant Tambling, Administrator

Thank you Honourable Members. We move to Notices

CRIMINAL LAW AMENDMENT BILL 2004

MR GARDNER Madam Deputy Speaker, thank you. I seek leave of the House to present a Bill for an Act to amend the Criminal Law Act 1960 and move that so much of Standing Orders be suspended as would prevent the Bill from being passed through all stages at this sitting

DEPUTY SPEAKER Is leave granted Honourable Members? Leave is granted thank you

MR GARDNER Madam Deputy Speaker I present the Criminal Law Amendment Bill 2004 and move that the Bill be agreed to in principle

DEPUTY SPEAKER The question is that the Bill be agreed to in principle

MR GARDNER Madam Deputy Speaker, in bringing this matter before the House today it is probably worthy of some explanation as to the requirement for urgency for both this and the following piece of legislation which is the Mental Health Amendment Bill 2004. Madam Deputy Speaker in light of recent tragic events on Norfolk Island it has been made quite clear that there have been deficiencies in Norfolk Island 's legislation both with criminal law and with mental health as far as arranging and ensuring for the best welfare of patients as far as mental health capacity is concerned and also in relation to some criminal law matters. Madam Deputy Speaker this and the following Bill are to be dealt with as a package and I am very conscious of the fact that Members have only in the last few minutes received Bills both dated the 9th August 2004 which are slightly different to the Bills that were presented to Members on Monday last for consideration in regard to the urgency of the particular matters surrounding these most tragic events. Madam Deputy Speaker as is my normal practice I will read the explanatory memorandum of this Bill into Hansard and table that accordingly. Madam Deputy Speaker the effect of both this and the following bill will be to effect the transfer of a patient from Norfolk Island to another jurisdiction being conscious all the time obviously of the welfare, wellbeing and treatment of a patient determined under these pieces of legislation. The criminal law of Norfolk Island is based upon the Crimes Act 1900 of New South Wales as it had been amended before 16 December 1936. A number of amendments of an ad hoc nature have been made from time to time since 1960. While a full revision of the Criminal Law Act is in the course of preparation, it has become clear that changes are needed in areas concerning the aspect of the law concerning the capacity of persons to be tried or to plead to a charge, or, indeed to be convicted of an offence. The criminal law in place at present is based on the concept of insanity and rules to deal with it that were developed by the courts over a number of years in the late 19th and early 20th centuries. These ideas and rules have largely been superseded by concepts and rules that have greater regard to growing knowledge and understanding of mental impairment. The law at present adopted by Norfolk Island no longer exists in its place of making and has been replaced there and in other States and Territories of Australia with legal rules that are formulated in a way that dovetails with laws dealing generally with mental health. The basic principle is that the courts are no longer directly involved with a determination of a person's mental state but refers such issues to a specialist tribunal that makes that determination and makes recommendations to the courts that in turn then make a determination of what is appropriate having regard to such reports and to the case before it. Generally persons who

are mentally impaired are held in custody in a secure institution where they can be looked after in a way that deals with their condition and provides protection for the community. The various States and Territories also have provisions within their laws that allow persons who are required to be held in custody to be held in places outside their jurisdictions if certain conditions are in place and agreements reached. This is done through the Mental Health legislation but remains subject to supervisory orders of the courts through application of the criminal law. This Bill is primarily concerned to up-date the criminal law of Norfolk Island to ensure that the law relating to mental capacity is as up-to-date as that anywhere else and provides the courts and community with a better and broader based system to deal with persons whose mental capacity is in question. The Bill also makes an incidental change to the sentencing provisions of the Criminal Law Act that are intended to permit the Court of Petty Sessions to discharge a person without conviction if it is satisfied that an offence is proven but the circumstances are such that it considers such action appropriate. While the provision requires an offence to be proven to do this, it has appeared that there is a view that a person who pleads guilty is also entitled to its benefit despite the fact that there is no hearing and all the facts are not placed before the Court. The amendment therefore makes it clear that the benefit of this provision can only be given to a person if there has been a hearing following a plea of "not guilty" and the Court is able to make a determination on all of the facts. The part of the Bill that deals with mental illness and mental dysfunction is basically divided into dealing with pleas of unfitness to plead, acquittals on the ground of mental impairment and convictions of persons who may be mentally impaired. The most extensive provisions are if a person says they are not fit to plead in which case the person is referred to a psychiatrist and then to the Tribunal to make a decision as to the person's fitness to plead. The Tribunal then informs the Court of its views and if the person is unfit to plead, whether the person may or may not be fit within 12 months. If a person is unlikely to be fit to plead within 12 months the Court is required to hold a special hearing at which the facts of the case are presented as if it was an ordinary trial. However the accused person is not required to plead but may be represented. At the conclusion of the special hearing there may be a not guilty decision or a finding that the accused did engage in the alleged conduct. In the former case the person is discharged, in the second, while there cannot be a conviction recorded the person must be referred to the Tribunal for a determination of how they should be dealt with. The courts may deal differently with an accused depending on whether the offence charged is a serious offence (defined as involving actual or threatened violence) or an offence dealt with summarily by a Court of Petty Sessions. If a person is acquitted or a case is dismissed on the grounds of mental impairment, the courts are required to make an appropriate order including referring the person to the Tribunal to make a mental health order. If the Tribunal makes a mental health order it cannot, under the Mental Health Act, direct that a person be held in custody for a period longer than the period advised by the Court as the period for which the person might have been held had the person been tried and convicted in the normal fashion. If a person is convicted of an offence but the Court considers it appropriate the Court can, as part of its order direct the person to submit to the Tribunal to determine the person's mental state and to make recommendations to the Court. The Court of Petty Sessions when dealing with a person convicted of a summary offence has the power to dismiss a charge or refer a person to the Tribunal but in so doing must have regard to the nature and seriousness of the mental impairment, how long it might continue, what harm the person may cause himself or others, whether the Tribunal could make an order, the nature of the offence the antecedents of the accused, and what effect any prior treatment may have had. Madam Deputy Speaker the remainder of the Bill makes changes to bring the existing law into line with the Mental Health Act and other than change to the power of the Court of Petty Sessions to refrain from making an order mentioned above, provides that the act will apply to existing proceedings if the accused has not pleaded as well as to all proceedings, commenced after the Act is gazetted. Madam Deputy Speaker in presenting this Bill I had undertaken to Members to raise some of their concerns that had originally arisen as a matter of presentation of this Bill

in its draft form to Members on Monday. Madam Deputy Speaker many of those concerns both in this legislation and the following proposed legislation has been addressed as best as time permits and have been incorporated into the Bill. Madam Deputy Speaker I have had direct contact with the Australian Federal Police in relation to the provisions of this legislation, they have run it past their legal people and are satisfied that it provides the necessary provisions for the appropriate transfer and treatment of patients to other jurisdictions from Norfolk Island and have had discussions with Crown Counsel who has advised that the President of the Mental Health Tribunal and others are understanding of the urgent nature of these Bill and those persons have endorsed the passage of the legislation today. In saying that it is important that I do point out that there may need to be a need for some fine tuning of some of the provisions for the longer term benefit of persons dealt with under both these pieces of legislation but the Bills today will provide for the effective transfer and continuing appropriate level of care and treatment of patients so referred under this legislation. Madam Deputy Speaker I commend the Bill to the House

MR BROWN Madam Deputy Speaker, could you simply note that I will abstain from voting. Members will be aware that I have a particular involvement in relation to a court case at present which makes it better that I not vote

DEPUTY SPEAKER Thank you Mr Brown

MR NOBBS I move that the question be put

DEPUTY SPEAKER Just bear with me a moment if you would please Mr Nobbs. I need to put the question that the Bill be agreed to in principle

QUESTION PUT
AGREED

MR BROWN ABSTAIN
MR ROBINSON ABSTAIN

The ayes have it thank you. The Bill is agreed to in principle

Is it the wish of the House to dispense with the detail stage? Thank you. I seek a final call Mr Gardner

MR GARDNER Madam Deputy Speaker, I move that the Bill be agreed to

DEPUTY SPEAKER Is there debate? Then I put the question that the Bill be agreed to

QUESTION PUT
AGREED

MR BROWN ABSTAIN
MR ROBINSON ABSTAIN

The Bill is agreed to

MENTAL HEALTH AMENDMENT BILL 2004

MR BUFFETT Madam Deputy Speaker, thank you. I seek leave of the House to present a Bill for an Act to amend the Mental Health Act 1996 and move that so much of Standing Orders be suspended as would prevent the Bill from being passed through all its stages at this sitting

DEPUTY SPEAKER Is leave granted Honourable Members? Leave is granted thank you

MR BUFFETT Madam Deputy Speaker I present the Mental Health Amendment Bill 2004 and I firstly table the explanatory memorandum which is as circulated except for the last paragraph Madam Deputy Speaker. To give clarity can I just emphasise that the Bill that I have presented in terms of the Mental Health amendment Bill 2004 is the draft dated 11.8.02 and I move that the Bill be agreed to in principle

DEPUTY SPEAKER The question is that the Bill be agreed to in principle

MR BUFFETT Madam Deputy Speaker, this particular legislation as has been foreshadowed by the Chief Minister is part of a package and one relates and dovetails to the other. In terms of this piece we presently do have on our statute books the Mental Health Act 1996 and that legislation is based on a generally common system which has been put in place in the various states and territories of Australia for dealing with various aspects of mental health however, the Norfolk Island legislation is restricted in its application. Indeed the restriction is such that it doesn't contain satisfactory provisions to deal with the range of mental difficulties that our legal and medical fraternity have recently had to deal with and this amending legislation Madam Deputy Speaker is proposed as a remedy. The purpose of this Bill is to provide the backing for amending provisions of the Criminal Law Act 1960 to which the Chief Minister has just referred that enables the courts to refer questions concerning the mental state of persons before it to the Mental Health Tribunal. The amendments proposed by the Bill insert new definitions that are intended to support the extended jurisdiction and responsibility of the tribunal, extends the nature of the enquiries and orders that can be made and ensures that the Tribunal cannot consider the mental illness of a person unless it has before it a report from a psychiatrist that states whether or not in the psychiatrist's expert opinion the proposal is suffering from a mental illness. There are new provisions which set out how the tribunal is to consider an order, sent to it by a court to determine a persons fitness to plead to a charge. If the Tribunal finds a persons unfit to plead and is not likely to become fit within twelve months, the Tribunal must review the persons fitness and inform the court of its findings. The Tribunal is given powers to make orders for persons who are in custody and within its jurisdiction and may order the release of persons on conditions that may be revoked or varied. The Tribunal is limited in the length of time for which a person can be held in respect of a court order and cannot require a person to remain in custody longer then could have been ordered under the offence with which the person was tried. The Bill provides for powers to authorize the transfer of mental health patients who are subject to a detention or custodial order to places outside Norfolk Island. I emphasise Madam Deputy Speaker that this amending Bill is part of a package coupled with the criminal law arrangements just presented by the Chief Minister and I commend the provisions of this legislation

MRS JACK Madam Deputy Speaker, thank you. I'm having trouble with relating some of the changes that were supposed to be made between the 9th was it and the 11th. Will these that don't match up cause any problems straight away. If they are changes that can be made as housekeeping or whatever fine, but if they are going to cause problems now then I do have a bit of a problem. I mean is this clause missing. I just need that clarified thank you Madam Deputy Speaker

of two or three be nominated and elected by the various Members of the fund and I just wondered if I was dreaming of that or is it that nothing has happened

MR DONALDSON Madam Deputy Speaker, I can respond to that. When the last trustee was appointed probably about eighteen months ago, there was a suggestion at the time that there would be a Board of Trustees and the Board of Trustees would be appointed by the Members of their fund. For various reasons that matter is still on the books, it hasn't progressed and this fills the gap in the meantime if this Government or the next Legislative Assembly has a mind to replace the single trustee with a Board of Trustees and have that person appointed by election to Members rather than by a resolution of this House. At this moment the Act hasn't been changed and the requirements before us are that this House makes a recommendation to the executive Member regarding the appointment of a trustee

DEPUTY SPEAKER Thank you Mr Donaldson. Is there further debate at this time. Then I put the question that the motion be agreed to in principle

QUESTION PUT
AGREED

The ayes have it thank you, the motion is agreed

CUSTOMS ACT 1913 – EXEMPTION FROM PAYMENT OF CUSTOMS DUTY

MR DONALDSON Madam Deputy Speaker, I move that under subsection 2(b)(4) of the Customs Act 1913 this House recommends to the Administrator that the goods specified in the first column of the schedule imported by the person specified in the opposite column and that the conditions mentioned in the second column of the schedule be exempted from duty. Column 1 is the goods and is an ambimanikin airways trainer and the amount of duty applicable on that one is \$577.30. Column 2, the important and the conditions, the importer is St John's Ambulance Brigade Norfolk Island and the conditions of importation are nil. Just speaking to the motion St John's Ambulance Brigade is a non profit organization on Norfolk Island which is registered as a company under the Companies Act. It does extensive voluntary work in the field of ambulance duties and other first aid activities including being present at sporting events and running first aid classes for the benefit of the island generally. The St John's Ambulance Brigade is to be commended on their activities. These activities extend past what you might call medical activities to fund raising activities. The fund raising activities are an essential part of their organization so that they can raise money to buy the equipment they need. Part of that equipment is this mannequin trainer for which duty exemption is currently sought. Finally I note that this sort of exemption is consistent with existing policy and I commend the exemption to the House

DEPUTY SPEAKER Thank you Mr Donaldson. Is there further debate at this time. Then I put the question that the motion be agreed

QUESTION PUT
AGREED

The ayes have it thank you, the motion is agreed

IMMIGRATION ACT 1980 – APPOINTMENT OF PERSON TO IMMIGRATION COMMITTEE

MR GARDNER Madam Deputy Speaker, thank you. I move that for the purposes of subsection 6(4) of the Immigration Act 1980 this House recommends the appointment of Andre Neville Nobbs as a Member of the immigration committee for the period 22 July 2004 to 21 July 2006. In proposing Andre to Members to be appointed to the Immigration Committee Andre has shown a very keen interest in wanting to be appointed to this committee. He does in the course of his life on Norfolk Island take a very keen and particular interest in the operation of legislation on Norfolk Island and as his homeland is keen to want to participate in a more fulsome way with becoming involved with some of the statutory bodies established by legislation on Norfolk Island. I commend his recommendation to the House. Andre, subject to support of Members will be coming into the Immigration Committee as a replacement for Mrs Joan Kenny and I think that a couple of months ago when we appointed Joanne Elliott to the Immigration Committee I made mention of the fact that I didn't know at that time whether Mrs Joan Kenny was available as she was offshore receiving medical treatment, whether she would be available or willing to continue as a Member of the Immigration Committee on Norfolk Island. Subsequent to that meeting I've had lengthy discussions with Mrs Kenny and I think after in excess of twenty years, and I think that's probably a fairly significant period of time and probably a record for any person on the island to be a Member of a statutory board or authority on Norfolk Island Mrs Kenny did decline further membership of the immigration committee after twenty odd years of outstanding service to this community as a Member of that committee. Andre has some fairly big shoes to fill Mr Speaker and I commend the recommendation to the House

MS NICHOLAS Thank you Mr Speaker, as a Member of the Immigration committee I would certainly welcome the presence of Andre Nobbs. His appointment would begin to address the current gender imbalance and I believe his presence as an islander would also ensure balanced representation on the committee and I certainly intend to support the motion

DEPUTY SPEAKER The question that the motion be agreed to

QUESTION PUT
AGREED

The ayes have it thank you, the motion is agreed

ADMINISTRATIVE REVIEW TRIBUNAL AMENDMENT (NO 2) BILL 2004

MR GARDNER Mr Speaker I present the Administrative Review Tribunal Amendment (No 2) Bill 2004 and move that the Bill be agreed to in principal. On first glance and I appreciate the difficulty that Members might have with this, it might appear that this is identical to legislation that was passed previously by this House some two or three months ago in fact it is, however it differs from that legislation that was passed and presented for assent to the Administrator in that it contains no reference as it did at that time to immigration matters and removes from the provisions of that particular piece of legislation any reference to schedule three items. The reason for presentation back to the House today is to primarily ensure that the Administrative Review Tribunal are able to operate under the provisions that were contained in that original act and to ensure that there is no delay in those provisions coming available to the Members of the Administrative Review Tribunal it was believed that this was the most expeditious way of dealing with that, rather than wait for the already lengthy assent process that we have sought to receive from the Commonwealth so very clearly it is to put this back into a schedule 2 matter where we will provide advise to the Administrator for assent and the expectation is that as a schedule 2 matter that assent would be immediately forthcoming upon presentation of advise. Mr Speaker just for the benefit of the listening public I will read the explanatory memorandum if

I could and table that and it reads as follows. This Bill is proposed to effect several changes in the constitution of the Tribunal including the creation of a Deputy President, provision for one senior member and for the designation of other members as ordinary members. While the President remains the Chief Magistrate, the Deputy President must be resident in Norfolk Island and be legally qualified. The senior member must also be legally qualified but ordinary members need not. The Deputy President is empowered to act in place of the President when the President is not on Norfolk Island or otherwise unable to act. The Bill provides that the Tribunal may ordinarily be constituted by a single member if that member is the President, the Deputy President or the senior member but if there are 2 or 3 members on a panel then at least one must be the President, Deputy President or senior member. The Bill varies the power of the Tribunal to hold a hearing elsewhere than on Norfolk Island but a person who seeks such a hearing must be prepared to pay the costs involved; it further empowers the Tribunal to seek expert assistance where it considers it necessary. The Bill clarifies the position of the Secretary and Deputy Secretary of the Tribunal who may not be directed by anyone other than the President of the Tribunal when they are performing their duties under the Act. The Bill clarifies and simplifies the time limits within which appeals may be brought and also gives power to the Tribunal to order costs against a person who brings a case that is considered to have been frivolous or vexatious or without merit. Mr Speaker that is all I have in relation to debate in this matter. It had originally been my proposal to seek some urgency to this but I am prepared to let this lay on the table for the intervening few days until the August 19th sitting and seek then to finalise it at that sitting. The reason for seeking urgency obviously was that we had already dealt with the provisions of this legislation at a previous sitting so it is somewhat repetitive but I'm conscious of the need for it to sit there for the week and am happy to do so and I will move at the appropriate time that debate be adjourned

MS NICHOLAS

Thank you Mr Speaker, Mrs Jack and I have been through this Bill line by line and have assured ourselves that it is indeed changed from the previous version passed recently by this House only insofar as it eliminates the ability of the Administrative Review Tribunal to deal with appeals against decisions of the Minister for Immigration. This has been done to facilitate assent to the legislation by the Commonwealth and I'm sorry to see this occur or the need as I believe that immigration matters should be dealt with locally and there is one major reason for my belief. It can take, and has taken up to two years for appeals against local decisions to be dealt with by the Canberra bureaucracy and I find that outrageous. Whilst these wheels have ground exceedingly slow people's lives have been on hold, held in limbo, and that is unjust. I support the amendment Bill Mr speaker but I'm disappointed that we've had to modify the intent of the Bill to get it up, thank you

MRS JACK

Mr Speaker, thank you. The original Administrative Review Tribunal Amendment Bill passed in the June sitting is still alive and well and in Australia or with the Administrator awaiting assent. The fact that we've had to reintroduce the same Bill minus references to the MRT so that other issues that were dealt with in the original Bill can once again be introduced, agreed to and then commenced I find disappointing. Disappointing because how long are we to wait for the original Bill to get the nod from Australia. The cost to Norfolk Island both monetary and resource wise in having to somewhat duplicate procedures is at the least annoying and to some extent soul destroying because no matter how much discussion goes on beforehand between Governments there is always some aspect that changes. Three Federal Minister in three years, the last two within months of each other, the departments changing with the Ministers, more briefings, more getting to know sessions, more time taken up. Meanwhile back with the Immigration Review and appeal process the situation stays the same. People with their lives on hold for how long as highlighted by Ms Nicholas are still left like shags on a rock for periods of up to two years. I will agree to this Bill and for the matters previously dealt with and agreed to, to

provisions that were contained in that previous piece of legislation without having to wait for that assent process which is already very much drawn out and with all due respect to everybody, we are very unfortunate that these things do take that long. I am happy to withdraw my indication that I was seeking to adjourn this matter. I believe that Members have clearly expressed to me their full support and it doesn't change anything. These provisions are no different to provisions contained in a previous piece of legislation so if Mr Brown is comfortable to move his motion to suspend those orders I will be fully supportive of that

MR NOBBS

Mr Speaker thank you. Whilst I support the motion passing at this sitting I am bitterly disappointed that something which I thought several years ago was agreed to by the Commonwealth and all concerned and that was the return of decisions in relation to immigration appeals to Norfolk Island but the Act mechanism that was to be put in place was the only area that we had to clarify. Well this was several years ago and this has come across us and I just wonder really if you look at the whole situation you will find that with the land package once it is eventually completed and also the immigration issue return to Norfolk Island we'll see a major change in roles in some particular offices on the island here and also in Canberra and I'm just wondering whether in reality we are not getting a block through that process. Having dealt with and been a Members of the Public Service for a number of years actually I could quite see such a thing occurring. Whether it has or not, I hope it has not, but I'm quite serious to tell you the truth that this particular issue that we are dealing with today has to go through and I would hope that the new Minister when I had the chance to meet him on Wednesday will be reminded of this letting down of the community of Norfolk Island

SPEAKER

Honourable Members, I will now turn to Mr Brown's proposal that so much of Standing Orders be set aside that would allow this matter to be reached in its final form today and I would put that proposal to you

QUESTION PUT
AGREED

Therefore we will continue with this matter to finality today. The question before us is that the bill be agreed to in principal. Is there any further debate on that question before I put it to you Honourable Members?

QUESTION PUT
AGREED

I ask you Honourable Members, whether you wish to dispense with the detail stage. Yes. We will dispense with the detail stage. I seek a final motion Chief Minister`

MR GARDNER

Mr Speaker, I move that the Bill be agreed too

SPEAKER

Any final debate

The question Honourable Members, is that the Bill be agreed to.

QUESTION PUT
AGREED

That Bill is agreed to thank you

INTERPRETATION AMENDMENT BILL 2004

MR DONALDSON Mr Speaker I present the Interpretation Amendment Bill 2004 and move that the Bill be agreed to in principal

SPEAKER The question is that the bill be agreed to in principal

MR DONALDSON Mr Speaker thank you. This Bill deals with four minor but unrelated changes to the Interpretation Act 1979. I'll deal with each of the four changes separately and perhaps if people want to discuss it we can discuss it after all four have been dealt with. The first one is clause 4 of the Bill which amends the definitions in the Interpretation Act. It amends the delimitation of Chief Administrative Officer to Chief Executive Officer, it amends the definition of Public Service which now becomes consistent with the definition of Public Service contained in the Public Sector Management Act, it amends the definition of public servant to be consistent with the definition of public sector employee in the Public Sector Management Act, these amendments simply bring the terminology of the Interpretation Act into line with that of the Public Sector Management Act. Clause 5 of the bill deals with the annual adjustment to fee units. The method of calculating the fee unit value is refined by expressing the factor obtained by dividing the latest March Retail Price Index number by the Retail Price Index number of March 1999. that factor has been changed from one decimal place to two decimal places and thereby allowing a smaller movement of the Retail Price Index unit to get the value of the fee unit. This will deal with the problem experienced in past years where fee units increased about every two years by a substantial amount instead of every one year by about half that amount. Clause 6 of the Bill deals with the delivery of documents. Current provisions of the Interpretation Act states that where the delivery of a document that is authorized to be sent by post shall be deemed to be effected at the time to which the letter would be available for delivery to the addressee in the ordinary course of the post. This amendment simply allows such a document to be served at the post office box of the addressee. It takes away the description which could be construed as the addressee's home address to allow it to be served at the post office box if there is one available and finally clause 7 of the Bill removes the reference to forms of punishment that are no longer appropriate in these enlightened times. The current provision of the Interpretation Act state where imprisonment may be awarded for an offence it may be awarded with or without hard labour. The amendment removes the reference to hard labour from the Interpretation Act and also removes the reference to hard labour from any other legislation where it might appear. It also removes any reference in any other legislation to punishment by whipping and keeping persons convicted of an offence in irons. That's really moving with the times and removing from our legislation where it may appear inappropriate references to inappropriate punishments. This amendment to the interpretation Act caters for minor changes required to modernize or improve legislation. The amendments do not have any financial impact, they do not adversely affect people's rights or obligations, nor do they change the intention of the legislation. They are probably best described as a housekeeping exercise and I commend the Bill to the House

MR GARDNER Mr Speaker, just looking around the table today obviously there's some difficulty with the removal of references to whipping and people being held in chains however regardless of that I do support the entirety of the Bill as it is presented before us. I think that there was some interest Mr Speaker in the provisions that permit documents to be served by post to be served by being addressed to a post office box and allowing that to be served in Norfolk Island as maybe picking up the long held desire that maybe things such as summonses and the like could be served that way. I understand from my consultation that, that would require some further amendment to other legislation to enable that to happen. This just permits the documents that can be served by post at the moment to be so served by addressing to a post office box number. It doesn't go outside of provisions that are currently in place in relation to that. As I said I support the bill and obviously look forward to the adjournment

MR BROWN Mr Speaker, this is obviously a housekeeping Bill. I don't feel a need to have it clutter the notice paper for another month. I wonder whether Members would support a motion that so much of Standing Orders be suspended so as to enable this matter to be dealt with to finality today

MR GARDNER Mr Speaker subject obviously to the views of Members around the table I would be inclined to support such a motion

MR NOBBS Mr Speaker thank you. I would support it's going through straight away also Mr Speaker but just in relation to the fee units, as the Minister said it's to stop a sudden belt in the fee unit every second year virtually, but don't think it won't happen again next year because the last fee unit was done twelve months previously so we've still got this two year gap. It won't kick in until 2006 but there is only one other issue and it's related to the smaller fee unit situation such as the tourist bed registration fee and some development activities under the Planning Act which also needs adjustment by virtue of the fact that bed levy's were increased from .75cents to \$1.00 because you had to go to the nearest dollar and that means that there was a large increase in bed units, registration fee units for tourist accommodation but there won't be one for another fifteen or twenty years when it will go with another wallop again and maybe that should be looked at to even out and I think the Minister is looking for that and I just wonder whether there's some sort of amendment following this one but I support what's in here. It's straight forward and it's fine

MR DONALDSON Mr Speaker thank you and thank you Mr Nobbs for bring that matter up. There is a second matter that this amendment doesn't address and that's simply where the fee unit is expressed as being a very small percentage of the fee unit for instance, the one that Mr Nobbs spoke about was the registration fee for tourist accommodation beds as 1/20th of a fee unit. There is a separate provision in the Act that requires fee units once calculated again the legislation that describes the number of fee units to be rounded to the nearest one dollar or multiples of .50cents so what happened was a fee unit that should be .75cents was rounded up to a dollar. Now that might not sound very much but when it relates to per night per bed 365 nights per year it becomes significant. It was a problem in the past. It's not such a great problem now because the fee unit isn't being rounded up anymore from .75 cents to a dollar, it's being rounded up from .90cents to a dollar and shortly when the fee units are adjusted again for the July 2004 adjustment it will come closer to the dollar again. Then Mr Nobbs is right in saying it will take a long time to get up to \$1.50. that's an amendment for another day. I did notice looking through the fees that were attached to the planning applications just the other day that this situation might repeat itself in planning applications because if you want to build a house or a hotel or something there's a cost of the first fifty square metres of coverage plus so much of a fee unit for every square metre above that and once again, the rounding provisions could inflate that fee to an unintended figure. We are looking into that now and I hope to prepare some advising for either the next Legislative Assembly or the next meeting even to allow for an amendment to the Act to once again remove this anomaly for fee units being rounded to .50cents when it would be more appropriate for some fee units to be rounded to .10cents but apart from that I support the amendment of Mr Brown that this matter be dealt with to finality today. There's no reason why it shouldn't be. Nobody is disadvantaged by it and once again, it doesn't clutter up the notice paper for following weeks

SPEAKER Thank you Mr Donaldson. Any further debate Honourable Members. I will now turn to Mr Brown's proposal that so much of Standing Orders be suspended so that this matter may be finalised today and I would put that proposal to you

QUESTION PUT
AGREED

The question before us is that the bill be agreed to in principal. Is there any further debate on that question before I put it to you Honourable Members?

QUESTION PUT
AGREED

I ask you Honourable Members, whether you wish to dispense with the detail stage. Yes. We will dispense with the detail stage. I seek a final motion

MR DONALDSON Mr Speaker, I move that the Bill be agreed too

SPEAKER The question Honourable Members is that the Bill be agreed to. Any final debate

QUESTION PUT
AGREED

That Bill is agreed to thank you

Honourable Members, I propose that we suspend for lunch at this time and that we return at two o'clock this afternoon

DEPUTY SPEAKER Honourable Members, we resume the sitting of the House for Wednesday 11 August

FIREARMS AMENDMENT BILL 2004

MR BUFFETT Madam Deputy Speaker I present the Firearms Amendment Bill 2004 and I move that the Bill be agreed to in principal

DEPUTY SPEAKER The question is that the bill be agreed to in principal

MR BUFFETT Madam Deputy Speaker I table the explanatory memorandum and explain that this Bill has been brought forward to correct some shortcomings in our current legislation because of course we do have a present Firearms Legislation. It will make provision for various offences concerning the use and the possession of firearms that don't have provisions under the present arrangement. The Bill has a new section that seeks to fill some of the gaps in the law. These deal with discharging of firearm on land generally, possessing a firearm on land that is defined and fenced and also talks about discharging a firearms from, to or across a road or a public place and using a firearm in a contest or an encounter involving the use of a firearm and it talks about discharging a firearm that is likely to endanger, to annoy or indeed frighten people that is public or individual persons it's not a lengthy piece of legislation but it is designed to pick up some difficulties that of recent times have been found to be needed whereas the present legislation doesn't have these sort of provisions. It is not my intent to ask members to progress to finality with this legislation. It's a matter of introducing it and then I will seek to bring it forward at our next sitting for its final considerations

MR ROBINSON Madam Deputy Speaker unfortunately commonsense sometimes has to be legislated for and as far as I can see this only covers that,

commonsense. I will be supporting the Bill but I am a licensed firearms dealer so I'm not sure whether I should declare a pecuniary or other interest in it however, it is commonsense and I have no doubt that it will carry on through thank you

MR NOBBS Madam Deputy Speaker mine is really a question. I just wonder if the Minister could advise us at the next meeting of what is referred to as Administration land, if that's supposed to mean commons and reserves or it is supposed to be roads. Some of the roads don't belong to us

MR D BUFFETT Madam Deputy Speaker, that does deserve clarification. By interpretation at this time is that it would include Administration land that is purchased or in the name of the Administration it may well include areas of crown land such as reserves and the like and there could be a number of other categories that could be covered by that all embracing term. I'm very happy to give some clarification to that when we come to address it the next time round

MRS JACK Madam Deputy Speaker, Mr Robinson referred to it as legislation for commonsense and I tend to agree with him however there has been an instant where a person I know was viewed and that is of a person traveling from A to B with a gun that was loaded and I mean, how far do we have to go to ensure the safety of the public. Do we have to now introduce perhaps a new clause saying that when transporting guns they should be empty and on safety and whatever. I don't know. It's for the members to discuss between now and the next time this is brought before the House but another concern I have is who is going to ensure that this Bill is carried out. I have a problem already with the safekeeping of gun's and is there a check done every year on every gun owner on Norfolk Island to ensure that the safe keeping of guns is being carried out. Why the legislation if we can't adequately supervise what we are doing. I will agree to it when it comes around. I can't see any point in not doing so but just some concerns thank you

MR D BUFFETT Madam Deputy Speaker, thank you and thank you Members for the contributions that you've made. I think in summary in terms of those contributions they are in no way really addressing any inadequacies in terms of the provisions of that piece of legislation. It is really saying are there any others that might need to be addressed whether the next time round or at another time and I thank Members for those contributions and I move that the debate be adjourned and resumption of debate be made an order of the day for a subsequent day of sitting

DEPUTY SPEAKER Thank you Mr Buffett. Then I put the question that the motion agreed to

QUESTION PUT
AGREED

The ayes have it thank you, the debate is so adjourned

TELECOMMUNICATIONS AMENDMENT (NO 2) BILL 2004

MR DONALDSON Madam Deputy Speaker, I present the Telecommunications Amendment (No 2) Bill 2004 and move that the Bill be agreed to in principle. Speaking to this bill the purpose of the bill is to revoke and replace the Telecommunications Amendment Bill 2004 which was passed in the House in March 2004. this Bill although presented as dealing with schedule 2 matters was not assented to by the Administrator, assent being deferred pending the receipt of legal opinion from the Australia Government solicitor. The opinion of the Australian Government solicitor was that the bill

may deal with unscheduled matters in particular, radio communications when a wide interpretation is based on the words "any communication". This was never the intention of the Bill and although there is some difference of opinion as to whether or not the Bill did deal with radio communications it was considered prudent to put the matter beyond doubt by revoking the original telecommunications Amendment Bill and presenting a replacement Bill with minor amendments. The Bill before us now is almost identical to the one it replaces, the only difference being changes to limit the Bill to telecommunications matters and hence enable it to be progressed as a schedule 2 matter. Those changes are that references to any communications have been replaced with references to telecommunications thereby eliminating any possibility of inferring that this Bill deals with radio communications. The addition is the following words to the interpretation section of the principle Act and these are the words that are added "notwithstanding subsection 4(1) and 4(2) of the schedule and that's the schedule that contains the definitions, nothing in this Act may be interpreted as inferring that a reference to a communication is a reference to a communication effective other than by means of telecommunications". I do not intend to go into the detail of this Bill as these matters were discussed and finalised at the February and March sitting. The reason this Bill is represented in the current form is a technical one dealing with the problems of the assent process. The abovementioned amendments are based on advice from the Australia Government solicitor and should enable the Bill to be assented to by the Administrator as a schedule 2 Bill. I will not be seeking leave that this Bill be dealt with as an urgent Bill and it is my intention to move at an appropriate time that debate be adjourned and made an order of the day for a subsequent day of sitting but I would expect the subsequent day of sitting to be in a week's time

MS NICHOLAS

Thank you Mr Speaker, the last time I spoke against this Bill. I made mention of moral fairness issues as well as questions of legality and my position on those issues has not changed. I am heartened by the fact that at last but not without persuasion the Minister has met face to face with Rob Ran and both parties believe that their discussion was productive. One small step but one giant leap forward. In March this year I pressed the Minister to tell this House and the community what his intention was in respect of the service currently provided by NIDS to its customers. A service which is considerably faster than that otherwise offered and I put the same questions now as I did about five months ago, why should Members of the community particularly those of the business sector be disadvantaged by a standard which is less than optimum, is it fair and reasonable to prevent fast efficient internet service simply to preserve an apparently an inefficient Government Business Enterprise. Telecom has had the same opportunities in the market place as NIDS has had. It has failed to capitalize them and in doing so has let down its customers. Why penalize the organization which has been entrepreneurial. Is it fair and reasonable to insert retroactive provisions into legislation. I certainly don't believe that it is. Is it fair and reasonable to shut down a private enterprise operation because it's treading on the toes of a Government Business Enterprises. No. Given that this Bill will go to the Administrator's office for assent, given that the Administrator will undoubtedly seek advice on the issue and taking into account that there are elections about to take place in both Australia and Norfolk Island how long will this uncertainty be allowed to continue. Some decisive action is called for. Action which should not deny this community fast efficient internet access by a provider of choice. The Minister said this morning in answer to my question asking whether it was your intention to shut down the NIDS operation that the matter would and I quote to the best of my ability "be decided on merit according to public interest". Mr Speaker I suggest that it is in the interest of a large part of the business community, particularly those involved in the tourism industry that the NIDS internet provider function continue. That those persons presently employed by NIDS be assured of ongoing employment and that all the Government Business Enterprises be placed in a position where they are efficiently managed and capable of meeting competition in the marketplace

Telecommunications Bill came into force and reserved certain rights in relation to telecommunications on Norfolk Island to the Administration. Those rights in those days related to 100% of telecommunications and they gave the Administration control over reserve line links. Now a reserve line link is a solid medium for the transmission of electromagnetic data between two distinct places and two distinct places can be two distinct buildings or two distinct land titles or anything like that, so it virtually covered everything that telecommunications could do. What has happened is that telecommunications has moved forward and the legislation stayed in the 1992 era. Although it says in there certain rights in relation to the following are reserved to the Administration it didn't specifically at that stage mention satellite dishes and transmission by radio communications. I shouldn't use that word. Transmission by satellites from base stations to satellite and back to a base station somewhere else so what this amendment does is bring it up to date to reinforce the original intention of the original Act. If the original Act had in it the provision for the executive Member to authorize in writing a person to install line links and whatever else that is normally prohibited, that philosophy is carried forward in this particular Bill before us at the moment. There is provision in the new Bill for the executive Members to authorise the use of satellite dishes, reserve line links and line links within this Bill. What my hope is, is that this Bill actually is passed either today or next week and we sit at our next sitting next week, then it will be presented to the Administrator for assent and in that time whilst that is happening there will be communications with other interested players in the communications field and we are talking mainly about NIDS but others could come out of the woodwork and hopefully come to some agreement, some workable arrangement but I'm advised by the Legal Services Unit in general discussions with them and I've got this advise in writing, that it's actually part of another advising but it fits here, it says that a person entrusted by statute with discretionary power must exercise that discretion accordingly to merit. Merit to a particular case and not inflexibly apply policy or rule irrespective of its merits. That is my intention to do it, commencing almost immediately, is to assess this thing on its merits. Now Mr Brown has mentioned on of the merit issues that we'll be assessing it on and that's the loss of a traditional taxation sources for Norfolk Island . that has to be assessed in the public good. It has to be weighed up against whether or not the cheaper telephone calls off the island are sufficient to extinguish that first taxation regime but passing this Bill doesn't in any way close down the operations of NIDS as an internet service provider, it doesn't in any way close down the operation of NIDS for wireless internet access. It requires a letter to be sent I understand to NIDS to tell them to stop using the satellite dish. I've undertaken not to send that letter until communications have been had and natural justice has a right to be heard before an adverse decision is made or exercised. That's the intention. I can't say now what the outcome of those discussions is going to be but I hope it's a win-win situation but without control that this Bill gives us over telecommunications and that's the control that's always been imagined that we've had and always intended to be had by the Telecommunications Act we can't progress the matter any further forward than we do now or it will be stalemate so I commend the bill to the House

MR NOBBS

Mr Speaker I would just like to make some comments on some of the things that were said by the previous speaker. The first one there was mild grounds was used. I thought that with this section of the Act the aims of this Telecommunications Act 1992 that the moral obligation lies with that Act surely, not with somebody breaching it. I could just imagine Kerry Packer setting up a taxation regime in Australia and what would happen then or some other sort of operation. I've got no problems with this at all. I take a little umbrage with what Mr Brown said that this issue was not dealt with by previous executive Members because it was left pretty well on the way as far as the incoming Government was concerned, that there would be some action in relation to that but unfortunately, it has all taken so long and is probably why we are in this predicament now that we don't follow up on particular bills when they become Acts and then see how really they are working and ensure that this, like the FIL legislation is kept reasonably up to date

with things, like the changing arrangements with FIL and banking and the like. The issue really is as one speaker said earlier, why is it reserved to the Administration. Very simply because it is a taxing regime. I think if you look out at this, the Revenue Fund received now \$1.2m. there's just on \$500,000 in salaries and wages which are paid for through Telecom. There's something like three quarters to a million dollars in other expenditure which the island has a take on and I'm talking about fuel, I'm talking about Lighterage, vehicle repairs, purchase of vehicles on the island, all these sorts of issues create a figure between \$2.5m that Telecom actually expends on the island in any one year. Take that out of the system and what have you. A loss there for starters. You've a loss in wages, a loss in the other things which we have to make up somehow or other. We would have to make up \$1.2m. now it's quite easy to reduce the costs of telecommunications. As Finance Minister that would have been one of my easiest decisions to just say we are going to cut it from x to y. simple. But then the process comes in. what are you doing. Where's the difference between x and y going to come from so until that work is done I believe that this telecommunications Act should remain in place and that it should be reserved to the community. I don't see anything wrong with competition provided they pay their way. If they don't pay their way well that's not really what I'm on about and I think the issue started really, if we're getting down to tin tacks, it goes beyond the NIDS issue. A lot is being made of NIDS and I take a bit of umbrage although I'm a NIDS client and have been for some time now, and I think there are a lot of people in that because they were a lot cheaper than Telecom at the time when I joined up but I take a little bit of umbrage because I've had a some real complaints funneled my way that people have gone back to Telecom because they've got a far better system. Now I haven't tested it myself and it's only what people are saying. I'm quite happy being with the NIDS organization and they've provided a good service to me but the situation really is that it should be reserved to Norfolk Island. We have to do that and after that's happened we can then work out where we're actually going without this loss of revenue to our system. I mean, people can jump on a bandwagon if they want to and say we want cheap telephones, we want all this sort of thing, but in the Australian context, and that's what I said to Members the other day, I saw an interview by a senior executive in one of the newer Telco's in Australia and he said with all this change and the cheaper this and cheaper that, there's going to be no real saving to the consumer because they are going to hit you somewhere else and that's why we have to look at the whole telecommunications operation and ensure that we are not only being fair with our costing but that we have in place something which will go on into the future until the next change and then be prepared for the next change as things come along but at the moment we seem to take so long to pick up these changes that the horse has bolted, retired and probably they are breeding from it before we even realize that the race is over, so I don't know. I support the bill and I think it should be through immediately We've been fooling around too long and that's another issue that I'm really more than a little disgusted with the various officers involved in this whole thing from a Commonwealth point of view that they've continually put what I would call a stop to it I guess by some reputedly iffy sort of arguments and I think I would urge Members to support the proposal that it be put through today and get the thing sorted out once and for all, thank you Mr Speaker

MR BROWN

Mr Speaker as is so often the case Mr Nobbs and I are of one mind in relation to the motion which I earlier indicated and could I take this opportunity to move it

SPEAKER

Honourable Members, we have in front of us a motion that so much of Standing Orders be set aside that would allow this matter to be reached in its final form today and I would put that proposal to you

QUESTION PUT
AGREED

Therefore we will continue with this matter to finality today. The question before us is that the bill be agreed to in principal. I'm really interpreted that you have exhausted debate on that question but I'll just look around to see that I am correct. Yes. I put it to you Honourable Members?

QUESTION PUT
AGREED

MS NICHOLAS NO

I ask you Honourable Members, whether you wish to dispense with the detail stage. Yes. We will dispense with the detail stage. I seek a final motion Chief Minister`

MR DONALDSON

Mr Speaker, I move that the Bill be agreed too

SPEAKER
agreed to. Any final debate

The question Honourable Members, is that the Bill be

QUESTION PUT
AGREED

MS NICHOLAS NO

That Bill is agreed to thank you

LEGISLATIVE ASSEMBLY (AMENDMENT NO 1) BILL 2004

MR GARDNER

Mr Speaker I present the Legislative Assembly (Amendment No 1) Bill 2004 and move that the bill be agreed to in principle. In tabling the explanatory memorandum I wish to read that into Hansard. It certainly covers in great detail the intent of the legislation but prior to doing that if I may, explain the reason for the No. 1 arrangement and also its relationship to and without pre-empting debate on a matter later on the agenda its relationship to the No 2 bill which immediately follows the presentation of this legislation. Mr Speaker there are a number of procedural matters that have been identified over many years that need to be addressed by amending legislation. Things to do with postal votes, absentee votes, time of nominations, the date that nominations are declared and the extent of time between when nominations are declared and actual polling day. I guess it's the machinery of the electoral process that is dealt with under this bill and the purpose of keeping that separate from the second bill is that the second bill in its entirety deals with the method of voting. Mr Speaker so that the passage and the assent process of these two pieces of legislation weren't held up by some barrier that might be put into place or some disagreement over the particular voting method that we were looking to employ for general elections on Norfolk Island it was dammed appropriation that we separate the two pieces of legislation, one into the mechanics and one into the method of voting and hence the reason for the two bills today and the titling of them as amendment No 1 and amendment No 2. With that said, as is my normal practice I'll read the explanatory memorandum into Hansard for the benefit of the listening public. We have had significant discussion around this table by Members and as I intimated earlier, significant input and consultation through various forums such as Select Committee, such as personal correspondence addressed to Members of the Legislative Assembly following previous elections and in the lead up to previous elections to try and make sure that some of these amendments that we are dealing with today were dealt with to finality by a Legislative Assembly so as to tidy up the machinery aspects of the electoral system on Norfolk Island. Mr Speaker, to the explanatory

memorandum. This Bill is presented to do several things. It will write into the Norfolk Island legislation, the changes in connection with the qualification of electors that were imposed by the Norfolk Island Amendment Act 2004 of the Commonwealth. While the Commonwealth legislation has paramount effect and does not need any amendment of the Norfolk enactment, it is the case that without the proposed change, the situation would appear confused and may lead to undesirable results. In addition the Bill makes various changes to the machinery of elections which it is hoped will assist electors and officials at election time. The Bill makes no change to the voting system. Part 1 of the Bill deals with the usual machinery provisions but provides that the changes in Part 2 (which deal with the changes effected by Commonwealth law) came into effect at the time the Commonwealth law became effective. Part 2 of the Bill amends the principal Act by making changes that repeat the provisions of the Norfolk Island Amendment Act 2004 that affect electors. This Part does include an additional provision that mirrors the Commonwealth Electoral Act in providing in clause 5 (new subsection 3A) that a person of unsound mind is not eligible to enroll. Part 3 of the Bill deals with a number of matters concerning elections and voting in general and is divided into clauses that make amendments dealing with common issues. The first main issue of Part 3 is relatively minor but corrects an anomaly which required the closure of nominations and their announcement to be made simultaneously at different places. Clause 8 of the Bill therefore provides a ½ hour break between the closure of nominations and their public announcement and also provides that if this timing cannot be met the announcement must be as soon as practicable thereafter. In Part 3 the time between nomination day and polling day is extended from 21 to 28 days. A significant proportion of Part 3 is the splitting (clause 11) of the old provisions concerning absentee votes into absentee votes and postal votes. The former are restricted to persons in Norfolk Island who are unable to attend a voting booth for various reasons and includes those who may be leaving the island with not enough time to be able to obtain and return a postal vote which is to be available generally to those who will not be on Norfolk Island on election day. While the provisions concerning absentee votes are not changed, the provisions for postal votes make provision that it is expected will make the system more workable. Thus an application for a postal vote can be made at any time and need not wait for nominations to close but must be requested at least 10 days before the election day to give time for the papers to be sent out and received by the applicant. A person who leaves Norfolk Island within the 10 days should obtain an absentee vote to ensure their ability to vote. An applicant for a postal vote (or an absentee vote) need only sign the application and does not need a special witness. This is similar to provisions in other places. Furthermore there is no time specified when a person may apply for a postal vote and it is expected that the Returning Officer will invite persons who are expected to be absent for a long period to register for a postal vote in anticipation of an election. It is envisaged that Regulations will deal with this in more detail. When an application for a postal vote (or an absentee vote) is received the Returning Officer must send out the papers as soon as possible after the candidates are known. The papers that go out for a postal vote or absentee vote are the same but the authorised witness in respect of a postal vote is different from that of an absentee vote. In Norfolk Island the authorised witness remains as previously but outside Norfolk Island is substantially changed. Previously the authorised witness was a person who could witness an affidavit, being a person listed in the Affidavits Act 1956. This legislation is now somewhat dated as some of the kinds of witness referred to no longer exist and others have replaced them. The Bill provides that outside Norfolk Island an authorised witness can be a Norfolk Island elector, an Australian citizen, an elector under the Commonwealth Electoral Act or a person in any place who is authorised to take affidavits or statutory declarations. This will make it easier for persons outside Norfolk Island to find an acceptable witness. The provisions concerning postal votes, largely reflect those for absentee votes and they must be received by 5 pm on polling day. A change to the provision concerning persons who do not vote has been extended to exempt from prosecution persons over 90, who may avoid voting if they wish without going off the electoral roll, and persons who are of unsound mind. A change is made to the

method of marking voting papers. At present there are 4 boxes next to each candidate's name and these can only be validly completed by putting one cross in each box. Nothing else is valid and, indeed anything else renders a vote informal. The Bill therefore enables a person to make a cross or a tick. A ballot paper will only be invalid if the elector puts in too many or too few crosses or ticks. If marks are made outside the boxes or a box contains more than one cross or tick the vote remains informal as it does at present. The principal intent of changes to the acceptable method of denoting a vote is to provide a little more assurance that all votes will be counted if the voter's intentions are clear – particularly as in the past it has been noted that a number of persons have ticked the ballot paper rather than makes crosses, possibly because for some people ticks stand for affirmation while crosses stand for negation. Mr Speaker that's the extent of the explanatory memorandum but it's also important if I may say that it was proposed that this legislation be brought in at the July sitting to enable it to be finalised at the August sitting, the August sitting being next Thursday. It is my proposal to seek to adjourn this matter at an appropriate time for that finalization to take place at the August sitting being very conscious of the need for these matters to be referred by the Administrator for advice from his Commonwealth colleagues in relation to the provisions of this legislation and being very conscious of the fact that this morning I announced that we had proposed October 20th of the date for a general election and the necessary provisions to be in place would require assent to this legislation within two weeks of next Thursday's sitting to enable all of these provisions to come into place. In anticipation of passage of this legislation in that proposed time frame I have provided advance copies of both this legislation and the legislation to follow to the Commonwealth to try and effect some expeditious assent process to this legislation in advance of the general election on Norfolk Island. I certainly hope that will proceed. At this time that is all I have to say. I will be looking to some input from my colleagues around the table before moving to adjourn the matter

MS NICHOLAS

Thank you Mr Speaker, I'm delighted to see a number of issues about which I've held concerns for some years have been addressed in this bill. The age old anomaly of the reading of the list of nominees literally as the closing off of the list has been addressed. There is now half an hours grace and some room to move is not all is going according to plan. The provision to vote with a tick or a cross. Good idea. One of the main provisions which has troubled me over the years has been the short time allowed between the availability of postal voting papers and the closing of the poll. This too has been addressed by now allowing 28 days rather than 21 days and I'm pleased to see that. I would however like to see some discussion about the prohibition on collection of postal voting papers no later than ten days before voting day. I think that given courier carriage to say Australia or New Zealand and express post return, a lesser number of days should be permitted under section 11 of the bill which deals with 21(a) of the Act and I intend to take that up in the time that this bill lies on the table, however, if Mr Brown presses us too into making this an urgent bill perhaps I would foreshadow a move to make an amendment from 11 to 7 days should he take course of action but I would prefer it be discussed amongst Members before. Thank you. I certainly support the bill in principle

MR BROWN

Mr Speaker it's very gratifying to note the importance which is placed on whether I'm about to move a particular motion and I thank the Honourable Member for that. It's taken a long while. Mr Speaker there is one issue in relation to this bill that I think I can help clarify. Firstly I have no difficulty with the bill. Secondly I have no difficulty with it remaining on the table until next Thursday but the third thing is that we are arguably now in a caretaker stage in that a recommendation has apparently been made that a new election be held on a certain date and in that caretaker stage it is normally expected that significant issues won't be addressed. There is a big rider on that and that is unless they have bipartisan support and as Her Majesty's Loyal Opposition I am more than happy to state that I support this bill and if as things develop over

the next few weeks a question is asked as to whether this bill has bipartisan support, then I am happy to confirm that it does and to confirm that I will be happy to put that in writing at any stage and that will hopefully enable the matter to be dealt with without anyone in another place questioning whether it is appropriate to take it any further

SPEAKER Thank you Mr Brown. Is there further debate at this time. I return to you Chief Minister

MR GARDNER Mr Speaker, I move that the debate be adjourned and resumption of debate be made an order of the day for a subsequent day of sitting

SPEAKER Thank you. Then I put the question to you Honourable Members

QUESTION PUT
AGREED

The ayes have it thank you, that motion is adjourned

LEGISLATIVE ASSEMBLY (AMENDMENT NO 2) BILL 2004

MR GARDNER Mr Speaker I present the Legislative Assembly (Amendment No 2) Bill 2004 and move that the bill be agreed to in principle. In tabling the explanatory memorandum just some brief comments if I may. My comments about the numbering of the bills obviously carry on into this piece of legislation and it has been highlighted since this matter was brought to Members attention that there may well be a preference for a variation on that which has been proposed by this legislation today but it is important that I get the legislation onto the table, that we have some debate about that and then probably Mr Speaker look to you at an appropriate time to maybe foreshadow what I would propose as a detail stage amendment for Members to consider in the intervening week or so that we have as far as dealing with this piece of legislation if it was the view of Members to try and deal with it next Thursday. Mr Speaker, to the explanatory memorandum. This Bill is intended to alter the voting system from the existing "Illinois" system which is a multiple vote "first past the post" system to one that is straightforward and single vote system. The Bill provides that an elector has a number of votes equal to the number of members to be elected and must vote by indicating for which candidate a vote is cast. A vote can be given by making one cross or a tick in the box against the name of each candidate for whom the elector wishes to vote. When the validity of a ballot is to be considered a ballot paper will be invalid if the elector has cast more votes, or fewer votes, than there are members to be elected or if a vote is placed outside the voting box or if more than one mark is made in a box. While it has been suggested that the Norfolk Island voting system fails to allow for the election of minorities or groups, that is not the case. Candidates do not seek election as a member of a group and each member is representative of the minority that supports him or her. Indeed it is quite feasible for the persons last elected to represent a small electorate just as it is under the Illinois system although the number of votes at the lower end are likely to be more than under Illinois. In a single electorate such as Norfolk Island where the constituency is small, the first past the post system provides a reasonably accurate picture of the community preferences for individuals that is thought unlikely to be significantly different from that under a preferential or Hare-Clarke type system. Mr Speaker that deals with the explanatory memorandum. If I could continue please in relation to the provisions in the bill. What we are talking about in simple language is a first past the post system where if for example in a general election there are nine vacancies to be filled, persons still retain the right to cast nine votes but under the provisions of this Bill are required to vote for nine individual candidates away from the system where it currently is which allows you up to a maximum of four votes for any particular candidate

which means that you must under the current system vote for at least three but up to nine candidates at any one time. Mr Speaker the reason for the proposed changes again comes from a number of select committees of enquiry of this Legislative Assembly looking at voting and governance issues. The first one of those that I recall that made recommendations in relation to the voting system was a select committee of the Seventh Legislative Assembly that looked at a return to the first past the post system and in the absence of support for that, support for a reduction in the number of votes that currently can be cast for any individual candidate from four as it currently stands, to a maximum of two. As the Members around the table would be aware, the Tenth Legislative Assembly, that's this Legislative Assembly have recently completed a select committee report into governance issues on Norfolk Island and it too has made recommendations in relation to the voting system that we employ and it too has made recommendations. I don't mean to pre-empt any discussion debate or acceptance of those recommendations other than to point out that it too has made recommendations that move away from the current Illinois cumulative system is the preference of those persons responding to the surveys as part of that select committee report. I don't need to add Mr Speaker but it is important also to point out that various joint standing committees have also made recommendations to move to a different system to that, that we currently employ. This is an attempt to put on the table a matter for discussion, debate and as I have previously alluded to Mr Speaker at the appropriate time, following discussion and certainly hoping to pick up on some of the discussion around the table this afternoon, I would like to explore with Members a possible detail stage amendment and would like to outline that today in light of the fact that I would be looking to either complete the passage of this legislation at the sitting next Thursday or at the sitting in September

MS NICHOLAS

Thank you Mr Speaker, as the Chief Minister has said we've yet to discuss the report of our own Select Committee and I'm mindful that their recommendation is for nine votes, first past the post voting system, but I'm also aware that a certain percentage of island residents who are electors responded to that committee and I believe I'm given a little bit of leeway in that knowledge. Having experienced first past the post voting, that is, the placing of the same number of votes as vacancies exist, I'm not satisfied that it brings forward the best combination of people able to serve this community. As one who is elected to this Assembly under the modified Hare Clark preferential system of voting I know that the community was not satisfied by that system, that's why we now have the system known as the Illinois cumulative and over the years I believe that system has served us well, however there certainly is pressure from within the community to change that and I'm certainly will to consider it. My own preference would be for a system which allows the placing of a number of votes, a limited number of people from the list of candidates, people I really wanted to see as Members of the Legislative Assembly. I don't want to be forced into placing votes for people simply to validate my vote. Therefore I seek a method which would allow me to do that. A method which would allow me to place votes for a limited number of candidates whether that is a modification of the method which is being presented to us today or a modification of our present system, such that we were limited to placing two votes, rather than the four allowed at present against any candidate. That would suit me well. I would still be forced if I may use that word, for not less than five candidates to validate my ballot paper, but I would not be forced to vote for nine. There is time to consider the arguments and I look forward to doing that, thank you

MR NOBBS

Mr Speaker I'm in favour of first past the post. It was used here for years before the Legislative Assembly was created. It worked very well. You seemed to get a reasonable run of people elected every year, not just one or two or three of them being elected all the time, there was a general run or it seemed to be. My concern is that if you cut back to five, well you think that's all you need on the Assembly, well reduce the Assembly to five then. I have no problem with that but if you can't find nine people to vote for you shouldn't be here, I can tell you that because everyone has got a vote on. You

might have five that you think are pretty good, some guy sneezes and you've got five on the other side, four that you reckon are no good and one guy that you reckon is good and they roll you. That's the situation here so you should be looking at the nine best people that you can have on the Legislative Assembly and go from there. I've heard about this donkey vote and a whole lot of other things but you still get that now. But it's still there. There's the possibility of doing it all the time. There's the possibility of three people being elected to the Legislative Assembly under this current arrangement. It probably won't happen but there is the possibility so the present system is a very dangerous system I believe where you can have people with a very limited number of supporters in the community holding extremely well and they can say what they like about the nine because down the bottom on the pile you've got the ninth guy usually voted for then by say the seventh and that's happened three or four times in the 25 years I think that's happened but nobody is able to tell me what happens to the other three votes from the people above them, where they went, so it's not a good system the present one. I can say fairly colourful words on it at this stage but it's a system that I believe needs changing and first past the post is one that was used here for years and I can't see why we can't go back to it, thank you Mr Speaker

MR ROBINSON Mr Speaker not having been voted into this establishment I'm not sure I should be talking on it or not but I have difficulty with being forced to vote for nine people whereas by doing that you may well be giving a vote to someone who you really don't want to see on the Assembly ahead of somebody who you do so I'm in favour of Ms Nicholas's proposed amendment

MRS JACK Mr Speaker, thank you. I'm for a first past the post system. I also believe that our Select Committee's as referred to by the Chief Minister in the Seventh have shown a need called for by the community and so it is with those desires that I would hate to see this Bill stumble and fall and for nothing to happen at all and so I would be willing to form some other opinion. I would hate to see as I said, this tumble and fall and to be seen to continue purely on the wishes of the JSC. To me it's continuing because of those Select Committee's and the wishes of the community, thank you

MR GARDNER Mr Speaker I was hoping that there was going to be some input from all Members today in regard the provisions of this No 2 Bill. The amendment that Ms Nicholas has outlined was one discussed by Members the other day as a possible option if Members weren't comfortable with the first past the post system, I won't go in therefore to outlining those provisions. An indication would be useful from Members however if that were to be adopted it would need obviously to be done by detail stage amendment at the next sitting either next week or early in September. I am very conscious that because it is a matter that is going to require assent, it is not a schedule 2 matter, from the Commonwealth that if at the end of this week the Commonwealth Government were to look to an election the likelihood of assent depending on whichever model we chose and the passage of it through this House would be unlikely to be assented to in time for the October general election on Norfolk Island so it is important Mr Speaker and unfortunately time has caught up with us in the sittings between July and this month. We certainly hoped that we would have had full passage of this before the Commonwealth decided to go to general election. I'm only speculating at this time that they are going to call it at the end of this week but certainly that call is imminent and hopefully we would be able to try and square this away and have some assent to the process before they themselves go into some form of caretaker roll. As I explained with the introduction of the previous piece of legislation drafts of both of these pieces of legislation have gone to the Commonwealth so that we can try to expedite the assent process and I think in light of discussion today I will be very keen to try and finalise this matter at the next sitting next Thursday of the House and it is important that those persons who are listening to this debate today please make contact with their elected representatives and make their views clearly known to them about their preferences for a

voting system that has been outlined clearly in debate today. The first past the post system or a variation of the system that we currently have, a reduction in the maximum number of votes from four to two votes to any one candidate. Maybe I'll come back to the adjournment question when the other Members have had an opportunity to have some further input in debate

MR BROWN Mr Speaker the Select Committee report will be debated at a later meeting but it's recommendation in terms of electoral change was based on an overwhelming response to a questionnaire. It was possibly the largest response to a questionnaire that there has ever been and the response of those who had completed and returned the questionnaire was overwhelming in the support for first past the post system so my first comment is we should be a little cautious before we put our pet hobby horses in front on an overwhelmingly expressed view of the community. Some of us might not want to vote for more than x people but does that bastardise the electoral process. In other places there has for a long, long time been a requirement that you use all of your votes and if we are going to say well you only need to use as many as you like, there's no need to use the lot, is that wise. Having said that, if a majority of Members choose to ignore the overwhelmingly expressed view of the community there are easy ways to do that. One is to say well at present our system really only requires you to vote for three people. You can go 4,4,1 or 3,3,3 as you wish or you can vote for more people with less numbers of votes as long as you use all nine votes. You can change that maximum of four to say a maximum of two, a very simple amendment to the present legislation and that would require more thought on the part of the voter because at that stage a voter would have to pick on five candidates. I'm sure that can be handled at our meeting next Thursday but I really do urge Members to put the community's view on an equal standing to their own pet hobby horse because at the end of the day we are here to express the views of the community not to ram down the community's throat the particular hobby horse that we might be riding at the time, thank you

MR ROBINSON Mr Speaker for a large part I do agree with Mr Brown. I wonder if it wouldn't be done in time for the next elections and perhaps because we are in caretaker mode we shouldn't be putting it up but there is one sure way to find out and that is to put the question, which of the two systems, do the people prefer and I know that the submissions to the committee came out perhaps overwhelmingly in favour of first past the post system but they were not given a choice per se so given that we obviously haven't consensus perhaps it might be better to leave it to the next Legislative Assembly to decide and they will not be in caretaker mode and so I put that to you

MR GARDNER Mr Speaker I move that the debate be adjourned and resumption of debate be made an order of the day for a subsequent day of sitting

SPEAKER Thank you. Then I put the question Honourable Members that debate be adjourned for a subsequent day of sitting

QUESTION PUT
AGREED

The ayes have it thank you, that motion is adjourned

PUBLIC MONEYS AMENDMENT BILL 2004

MR DONALDSON Mr Speaker thank you. I present the Public Moneys Amendment Bill 2004 and move that the Bill be agreed to in principle

SPEAKER

The question is that the Bill be agreed to in principle

MR DONALDSON

Mr Speaker this Bill is proposed for the purpose of making better provision for future capital expenditures in areas where it is known that significant costs will be incurred at a future point in time. The Bill creates a new fund within the Public Account of Norfolk Island and that new fund is called the Reserve Fund. The Reserve Fund is a repository for money set aside to meet future capital expenditure on both new items and replacement items. Examples of such items would be a new telephone exchange, resealing the airport runway, rebuilding programmes at the hospital, new electricity generators and many other major predictable expenses. Separate heads of the Reserve Fund are established for each of these items. Such heads are established either by resolution of the Legislative Assembly or by executive Member by disallowable instrument. This Bill also puts controls in place to ensure that once established the head of the Reserve Fund has a statutory protection by requiring that moneys paid into the head of the Reserve Fund require either appropriation by the Legislative Assembly or authorization by the executive Member. The distinction there is that the appropriation by the Legislative Assembly deals with the Reserve Fund items and authorization by the executive Member deals with the Administration Services Fund items. The protection is also established by the purpose of the Reserve Fund cannot be changed except by enactment of legislation or resolution of the Legislative Assembly of which thirteen days notice must be given. The protection is further enhanced by the fact that moneys can only be paid out at the head of the reserve fund for the purpose for which it was established and in accordance with appropriation of the Legislative Assembly. Mr Speaker the proper use of the reserve funds requires a consideration of yearly contribution to each Reserve Fund as an integral part of annual budgeting and that's something that we haven't been doing. We've been doing our annual budgeting of how we are going to get through the next twelve months. This makes the annual budgeting process take a more long term view of things. The Bill also has annual accounting requirements. The Bill requires annual accounting disclosures of each head of the Reserve Fund to include the opening balance, the closing balance and the transactions relevant to each head to be reported in the Administration financial statements. Mr Speaker this amendment to the Public Moneys Act is part of a financial strategy being put in place to ensure that funds are available for future needs and goes hand in hand with a fifteen year forward estimates programme currently being developed by the Administration. The Bill is a step towards better management of the public sector finances and I commend the Bill to the House

MR BROWN

Mr Speaker I'm pleased that we are now talking of a fifteen year plan because it has become obvious that five year plans don't get finished within the five years so they really are not a lot of help to us so if a fifteen year plan can be finished within the next five years it will at least will have ten years left to run. Having said that I commend the Minister for the bill that he's brought before the House. I think it is a worthwhile improvement to the management of our funds and I certainly support it

MRS JACK

Mr Speaker, I also commend the Minister but I do have a problem when they talk about in section 19(b) that funds or moneys as are appropriated from time to time and it is my concern that there is not a set amount determined at the beginning of each financial year to be taken out say every quarter or that a percentage of a fee will be taken out. There is no actual amount decided and so the lack of consistency here I suppose which would flow on to me to some extent and the lack of consistency with forward planning and also just making the community aware that if we are pulling out more funds there are going to be increases in fees and charges, thank you

MR NOBBS

Mr Speaker I also commend the Minister on bringing this forward and establishing these funds. The situation really is I don't think it goes far

enough but anyhow it's a start and that's the main thing because I do believe that the Government Business Enterprises should be set up as proper businesses and operate effectively and these funds would then of course be tied up with that particular organization and those others at the present time that's in the revenue fund which have a large amount of infrastructure responsibility should be made Government Business Enterprises and I talk about Forestry, and Roads and the Works Depot should all be made Government Business Enterprises and run as a proper business and it would be far better for everybody concerned but this is a step in the right direction. An attempt was made before to set up an infrastructure fund along these lines but people couldn't see the way clear at that time and I'm pleased to see that the Minister is getting some support here in this forum. What we have to be clear on is that there is no way in the world that the funds can't be got at and that means that they are not totally tied up because it can be by resolution of the Legislative Assembly and that's where the succeeding Assembly's must be very clear on the fact that these funds are set aside for specific purposes and I can remember a few years ago, I mean this is six or seven years ago that there was a big hue and cry that they found all this money which was sitting in particular funds which were to be used on specific areas and there was a bit of a raid done on some of them but I would hope that with this system succeeding Legislative Assembly's would take the view that there is a need to reserve funds for future use. There's also been a stupid premonition I guess or statements made that we shouldn't be putting money aside for future generations. I mean that is something in five or ten years time or might be fifteen years time with the airport, they should pay for it and that's been stated in this forum and my response to that is well, who's paid for the stuff we've got now. That was the previous mob and on it goes so this is setting something up and it's a good start, but only a start. But a good start Minister to what I believe should be a proper business arrangement for all those areas that have infrastructure, thank you

MS NICHOLAS Thank you Mr Speaker, I wish to briefly support what Mr Nobbs has said. I applaud the Minister and the aims of the bill and I also agree with Mr Nobbs and his perception of the need for the Government Business Enterprises to be well managed and viable business enterprises. Thank you. I shall certainly support the bill

DEPUTY SPEAKER Thank you. Is there further debate at this time. Mr Donaldson I return to you

MR DONALDSON Mr Speaker, I move that the debate be adjourned and resumption of debate be made an order of the day for a subsequent day of sitting

DEPUTY SPEAKER Thank you. Then I put the question for debate to be adjourned for a subsequent day of sitting

QUESTION PUT
AGREED

The ayes have it thank you, that motion is adjourned

LEGISLATIVE ASSEMBLY (REGISTER OF MEMBERS' INTERESTS) BILL 2004

Honourable Members, we resume on the question that the Bill be agreed to in principle and Mr Gardner has the call to resume

MR GARDNER Mr Speaker in I think May of this year this was introduced into the House and we had a significant deal of discussion and all the reasons why this piece of legislation had been promulgated and brought to the House was explained then. We went into quite some detail. Members had a number of issues rather than

concerns I believe with the provisions of the legislation and I think there was a genuine desire at that time by Members around the table who wanted to make sure that when we had this legislation in place it was going to be something that firstly people could easily understand and was workable and wasn't going to put in the way any hurdles for people who had concerns about the conduct of Members of the Legislative Assembly and also to do with their personal interests which in many other jurisdictions is provided for in various forms and fashions either by codes or in some instances as we are doing some legislative arrangements or a combination of both. In light of that those discussions, and they have been in depth discussions, there's been a lot of discussion outside of this forum with Members of the Legislative Assembly, there were a number of issues which were addressed from the bill that was introduced back in May and in light of the changes that had been proposed it was felt more appropriate to withdraw all the clauses of the bill after clause one and basically insert a full range of new clauses from 2 through to 12 rather than try to deal with the detail stage by going through and picking things out and changing them, it was basically to have a clean piece of paper and Mr Speaker at the appropriate time at detail stage I will be planning to move that. Attached to the legislation since May has been draft regulations. Those draft regulations set out the requirements for a primary return which is referred to in the legislation. Members have to fill in the form when they are first elected to the Legislative Assembly. It provides as a second schedule in those regulations for an updated return which is the Annual Return and also is the third schedule in those regulations provides for a form to amend any of those returns that fare provided as far as Members interests are concerned. These are in their draft stages at the moment. I haven't had an opportunity yet to hear from Members about whether they are comfortable with the format of those draft forms for providing their details for the Register of Members Interests, but I look forward to that discussion today, bearing in mind that it is not a requirement for us to have to settle the regs today. That is dealt with through another process. Mr Speaker also circulated to Members are proposed draft amendments to Standing Orders which will give effect to some of the provisions and some of the requirements to support this legislation that we have before us today. It was my desire to try and finalise this today and to look to finally those regulations and Standing Orders at a subsequent sitting and if this House isn't in a position to do that, certainly to encourage an incoming Assembly to look at making those necessary regulations and changes to Standing Orders but at least we will be providing a platform for the appropriate accountability and transparency mechanism for Members of the Legislative Assembly. In part it goes to addressing some of the issues raised I think by Mr Brown in a question he had for yourself this morning Mr Speaker in relation to the RACON letter where it had made some throwaway remarks about Members of the Legislative Assembly. This is the legislation that will provide an avenue for people who have complaints against Members of the Legislative Assembly to have those complaints heard properly investigated and outcomes reported back to the community as a whole from complaints that may be raised against Members of the Legislative Assembly so it appropriately and adequately in my view deals with those issues and I continue to commend the bill to the House. We have resumed on the question for agreement in principle and I look forward to other Members participation this afternoon before we head to the detail stage subject obviously to agreement in principle

MRS JACK

Mr Speaker, thank you very much. I would just like to add a little footnote I suppose and while we may be discussing the Select Committee's Report at the meeting next Thursday I would just like to note that there is a section in there that talks of a Register of Members Pecuniary Interests and Bias that a register should be established for Members and that actually came out of the questionnaire that Mr Brown has referred to and it's just great that things have been running in conjunction and that I would also like to see this matter finalised today. I would again like to thank the Clerk of this Legislative Assembly and the Legislative Draftsman for their research and knowledge that has provided valuable input into this document that is currently before Members today for

their consideration as has the Chief Minister said, copies of the regulations. That I think is a complete package and one to have a bit of praise given to it. Thank you very much

MS NICHOLAS Thank you Mr Speaker, I'm pleased to acknowledge too that there has been a great deal of discussion about the provisions contained in this Bill and significant input and Mrs Jack has mentioned. Models in other places have been considered, various opinions have been considered and have contributed to this final document. As the Chief Minister has told us there are provisions for a Code of Conduct, and Disclosure of Members' Interests. Now Mr Nobbs was asking a question this morning which I think has already been alluded to about such things and at the risk of taking additional time I think it's worthwhile reading the Code of Conduct. It is part 2 of the Legislative Assembly Register of Members Interests Bill. It is hereby declared that a Member of the Legislative Assembly is bound by the following Code of Conduct. A) a Member shall 1) accept that their prime responsibility is to the performance of their public duty and therefore ensure that this aim is not endangered or subordinated by involvement in conflicting private interests. 2) ensure that their conduct as Members must not be such as to bring discredit upon the Legislative Assembly. B) Members shall not advance their private interests by use of confidential information gained in performance of their public duty. C) Members shall not receive any fee, payment, retainer or reward, nor shall they permit any compensation to accrue to their beneficial interest for or on account of or as a result of the use of their position as a Member. D) Members shall make full disclosure to the Legislative Assembly of 1) any direct pecuniary interest that they have 2) the name of any trade or professional organization of which they are a Member which has an interest 3) any other material interest whether of a pecuniary nature or not that they have in or in relation to any matter upon which they speak in the Assembly E) Members who are executive Members shall perform their public duty without fear or favour and in such manner as to ensure that neither they nor their family materially benefit from the exercise of their public duties F) Members who are executive Members are expected to devote their time and their talents to the carrying out of their public duties. The Disclosure Form asks for details of all income sources, seeks information about the holding of any position in any company or trust; seeks information about any cash or travel benefits, any gift of or above \$500 received by the Member or any other substantial interest of the Member or the Members' family whether pecuniary or otherwise which the Member considers might appear to raise a conflict between their private interest and their public duty as a member. Any Member of the Assembly or member of the public who wishes to make a complaint about a member's contravention or alleged contravention may do referred to the Committee of Privileges and there is also provision for referring a matter to Crown Counsel for consideration and determination of whether charges should be laid. This Bill lays down a precise process for dealing with these issues if and when they arise. There is a requirement for the Speaker to submit a report to the Assembly - and as a consequence to the community - as to how many complaints were received in the previous year, what form those complaints took and how they were dealt with. Mr Speaker this is a comprehensive piece of legislation which has been well considered and it is my intention to support it

MR NOBBS Mr Speaker I have a query if I may please. Just in relation to the finances on page 2 is the financial benefit means, right up the top and its got in there other than remuneration received by the Member under the Public Sector Remuneration Tribunal Act 1992. Is there any reason for that to be included there is what it really means is that in the private enterprise you have to declare all your things but any Public Sector Members who may be elected to the Legislative Assembly and they still possibly can be elected to the Legislative Assembly, don't have to disclose

MR GARDNER Mr Speaker I apologise. I am unable to give a response to that other than I understand the purpose of it is that if somebody who received public

sector remuneration from the Public Sector Remuneration Act that would probably be I would think all Members of the Public Service or public sector employees on Norfolk Island are not required to declare that income. My understanding is that is already on the public record

MR BROWN Mr Speaker it is an interesting question. I would be quite happy for it to be sorted out later on but it's not the case that a person's income from the Public Service is on the public record because it's not public information and certainly it's very difficult to justify a situation where a person who is a public servant and happens to be a Member of the Legislative Assembly is subject to a different set of rules. Quite clearly such a person would have in some circumstances a pecuniary interest whenever matters in relation to the Public Service were being discussed. I accept that where he is one person in a very large class of persons with almost identical interests, that should not preclude him from voting on the matter but it nevertheless is an issue that we do need to sort out. Perhaps we can deal with the matter today and perhaps the Chief Minister can sort that out for us for our next meeting

MR GARDNER Mr Speaker thank you. It has been raised with me that possibly those couple of lines actually attach to c) of the definition of financial benefit. In other words where there is a requirement already to declare any remuneration a that you receive in excess of \$500 that c) in the financial benefit reads the total of all remuneration fees or other pecuniary sums received from other sources or to which the Member may become entitled in the twelve months next following the date of making a return, other than remuneration received by a Member under the Public Sector Remuneration Tribunal Act 1992. I'm happy to take on board those comments just to make sure that is very clear. I don't think at this early stage that will cause a problem with the passage of this legislation but we will ere on the side of caution and ensure that it doesn't cause that problem

MS NICHOLAS Thank you Mr Speaker, if it assists at all, in the previous draft that particular phrase appeared under B) but then the wording at that time was different as well, so that may not assist

MR BROWN Mr Speaker I move that the question be put

SPEAKER The question before us is that the question be put that the Bill be agreed to in principle

QUESTION PUT
AGREED

The ayes have it thank you, the Bill is agreed to in principle

We move to the detail stage? Chief Minister

MR GARDNER Mr Speaker thank you. I move that the detail stage amendments dated 16 July 2004 be taken as read and agreed to as a whole

SPEAKER Thank you Chief Minister. Do you wish to address the matter

MR GARDNER Thank you Mr Speaker. I probably have said as much as I need to in my introductory remarks this afternoon foreshadowing the fact that the detail stage amendments were there and that technically it picked up all of the changes, most of them minor in detail that had been proposed in the intervening time between the introduction

of this bill into the House in May of an today's date. I don't intend to go into any further detail regarding the provisions of the detail stage amendments

SPEAKER Thank you. The question before us is that the amendments be agreed to. Any further debate.

MS NICHOLAS Thank you Mr Speaker, isn't this a question which has just been raised in respect of one of the definitions which appears in this detail stage amendment sheet or do you feel it's been resolved

MR GARDNER I feel as though it's been resolved but as I said with abundant caution Mr Speaker I am prepared if I am wrong in that to have that corrected as soon as is humanly possible but I believe that my reading of it as was supported by your comments regarding the previous version of the Bill was that the intention was that, that gap not be in their and actually attached to part C) of that definition

SPEAKER Thank you. Any further debate.

MR BROWN Mr Speaker there does appear to be some confusion. I wonder if we should take this matter almost to its conclusion and then adjourn it until our meeting next Thursday which is only eight days in order to finalise it and in that time the concerns that Ms Nicholas has and I expect that Mrs Jack has could perhaps be resolved. It really is a more sound resolution then passing it today and then being at risk of requiring an amendment in a weeks time

MRS JACK Mr Speaker, insofar as this has come I would hate to rush that last bit. I would like it to go to the rope as well as we can make it so I have no problem

SPEAKER Is that a proposal then Mr Brown. Then Honourable Members, could I just give clarity to that. We are at the detail stage and we have a motion before us that the amendments which have been moved on mass so to speak by the Chief Minister are to be agreed and Mr Brown as discussed amongst you all has proposed a pause, therefore, and an adjournment at that stage of proceedings to come forward at the next sitting. If that is an adjournment arrangement I put it to you Honourable Members. The question is that the debate be adjourned and resumption of debate be made an order of the day for a subsequent day of sitting

QUESTION PUT
AGREED

The ayes have it thank you, that matter is so adjourned in the context I have endeavoured to describe to you Honourable Members

APPOINTMENT OF ADDITIONAL STANDING COMMITTEES

Honourable Members, we resume debate from the 17th March on the question that this motion be agreed to and Mr Nobbs you have the call to resume in this matter

MR NOBBS Thank you Mr Speaker I move that the amendments dated the 6th August 2004 be agreed to. Mr Speaker the previous motions was proposed that chapter 4 of the Standing Orders be amended to provide for the establishment of a Scrutiny of Bills Committee, a Public Expenditure Review Committee and a Public Works Committee and that was the sum of that motion. Subsequent to that there's been

considerable discussion in relation to this. The three committee's were fleshed out as to what was proposed, their Membership, their actions, what they were to consider, their functions and how they would fit in with other sections within Standing Orders apart from Standing Order No 20. it was then changed as you are quite aware that we would deal with one and start with one committee and the amendments that I proposed just now dated the 6th August 2004 actually reads as follows, 1) the following new Standing Order be inserted after Standing Order No 20. 20A. Impact of Bills and Subordinate Legislation Committee. 1. an Impact of Bills and Subordinate Legislation Committee to consist of three permanent Members and an alternate Member to act when a permanent Member is unavailable due to illness, is off island or nominates to be absent due to a conflict of interest or some other reason, shall be appointed as soon as practicable after the opening of a new House 2. the committee shall consider whether a) clauses of bills introduced into the Legislative Assembly and any instruments of a legislative nature tabled in the Legislative Assembly which are subject to disallowance or disapproval by the Legislative Assembly including regulations, rule or bylaw made under an Act 1) are consistent with the principles of natural justice, do not trespass unduly on personal rights and liberties or impose an obligation retrospectively 3. have sufficient regard to Norfolk Island's traditions and culture 4. have objectives which could have been achieved by alternative or more effective means 5. are sufficiently clear and precise and do not require elucidation 6. contain no duplication, overlapping or conflict with other acts and c) the costs associated with the implementation operation of the legislation have been clearly identified and are acceptable. The committee for the purposes of reporting on the matters to be addressed in paragraph 2. many consider any proposed law or other document and I said 2. there because in the previous one it was paragraph 1. which was mistake, and may consider any proposed law or other document or information available to it notwithstanding that such proposed law document or information has not been presented to the Legislative Assembly 4. the committee shall elect as chairman a Member appointed to the committee 5. the chairman may from time to time appoint a Member of the committee to be deputy chairman and the Member so appointed shall act as chairman of the committee when there is no chairman or the chairman is not present at a meeting of the committee 6. the committee may appoint with the approval of the Speaker counsel to advise the committee 7. the committee shall report to the Legislative Assembly on its deliberations and recommendations of the meeting next following a reference under Standing Orders 156a or 179a and if it does not do so then unless the House gives leave to report at a later date the committee is deemed to have approved the bill or legislation referred to 8, Accept as there may be inconsistent elsewhere the provision of Standing Orders 200, 221 apply to this committee and 2. the following new Standing Orders 156a be inserted after Standing Order 156. 156a will read after a bill has been presented the bill other than a money bill or a bill transmitted to the House by the Administrator shall be referred to the Impact of Bills and Subordinate Legislation Committee and 3. the following new Standing Order under 179a be inserted after Standing Order 179. 179a to read, after a regulation has been laid before the Legislative Assembly under section 41 of the Interpretation Act 1979 the regulation shall be referred to the Impact of Bills and Subordinate Legislation Committee. And that's very fortunate Mr Speaker that there's only one of them or I'll probably be here all afternoon reading them out. If I could proceed with that Mr Speaker. The situation is that it's a follow up to what I believe is essential

SPEAKER
just read Mr Nobbs

I've interpreted that you've formally moved what you've

MR NOBBS
Speaker

Well I thought I did. I moved it right at the start Mr

SPEAKER

Fine. I'm happy that we proceed on that basis

MR NOBBS I moved the amendment dated 6th August but I'll move it again if you like. That's the position, to establish an Impact of Bills and Subordinate Legislation Committee which I believe is imperative and I understand that there is some support within the organization and also from the Standing Committee for the establishment of these sort of committees. My personal view on this situation as a Member of the Legislative Assembly is that there is a need for a greater role of the backbenchers in a formalized nature where they know precisely what they are in for and therefore we have currently three or four committees. I think two of them haven't been formed as yet. I would suggest that this one would be a most important one particularly in areas where there is a need for public input into the bill process. I think that that's where it would be. I would see this committee actually having procedures in place which would be very simple, that those proposing a bill would need to provide to the committee proof that there are certain things that they need, that's consistent with natural justice, does not trespass unduly on personal rights as it says in 2. those things can be easily done. The committee can do what they like but if a committee works efficiently there is no need for them to be sitting for days and days. There is no need for them to be pouring over bill after bill after bill like today. Most of those could be dealt with fairly quickly but there are a couple there including one of the latter ones, the first past the post or what have you, that would need considerable input I believe from the committee. That's just one of the notice paper and I can't remember what the others are really but the situation is that standing committees of this nature provides for the ability to look at it. We have had some problems with bills in the past where they've gone through fairly quickly, they haven't been covered really clearly, and I believe this process would do it so in summary I would suggest that maybe it's for a review of the bills but that would be done by a fairly simple process that would allow for public input into it and it would be generally it would just a check on the bills. I know that some Members have a problem with it. They think it's duplication. I don't think it will be. I think that if they set the procedures up in place that they require from the propose or the Public Service who would actually do the drafting for the bills, as bills usually come from the Public Service, there's not too many of them that Members actually work on and become bills through their work, so you would require then that those proposes of those bills provide a fairly simple check list and I can't see anything wrong with that. Anyhow Mr Speaker I see hands up everywhere so I bow to that, thank you

MR BROWN Mr Speaker the original motion was moved by Mr Nobbs quite some months ago. There has been very extensive discussion both in the House and in informal committee meetings about it. Today Mr Nobbs has amended his original motion by cutting it back to just one committee. It appears to me that there has been quite general support for his proposition on the basis that we'll try it out and see how it works. On that basis I don't see a requirement for us to speak at great length. I would suggest to Members that the time is appropriate for us to put the motion to the vote and if the motion has support for it to be passed and I'm about to move that the question be put

MS NICHOLAS Thank you Mr Speaker, dear me. I do run a dangerous line here. Mr Brown is good at calling Points of Order in this place, he does so on the basis of Standing Orders, he calls them when something isn't being done as it should be, in his view and I run the risk here of him calling a point of order on me saying that I should be no longer heard if I understand correctly

MR BROWN Point of Order. Irrelevant. Ms Nicholas is anticipating the debate

SPEAKER There is no Point of Order Mr Brown

MS NICHOLAS

Thank you Mr Speaker. The appointment of Standing Committees of the House are a common practice elsewhere as it is here. Standing Orders are those rules which govern the running of meetings of this House, they are the rules which dictate the order of things and the things which may and may not be said at certain times and I've alluded to that already. Mr Nobbs' suggests that we need a committee to consider the impact of legislation and it's very difficult to argue with that however, I do have some concerns about the process. Now this is interesting because I would have been one of those who argued most strongly that we needed a Scrutiny of Bills Committee but when one actually sits down and works through the process it becomes something else again. Earlier in the term of this Legislative Assembly there was no doubt in my mind whatsoever that we desperately needed a Scrutiny of Bills Committee but I must say that the sense of desperation has been allayed somewhat, certainly for me by the current Legal Services Unit capabilities so my present concern rests with the possibility of duplication of workload within the Public Service and as Mr Nobbs has already said, the Service more often than not stimulates the conception of a need for a piece of legislation. The executive Member working with Members of the Public Service generally sets the broad picture and the draftsman proceeds to paint the word picture in detail. Sometimes an executive Member will bring forward what is called an exposure draft. A document which actively seeks comment from those affected or involved in the matter. This helps the process and usually ensures that the end result serves the community well. What results if a piece of legislation which has been properly considered by the community and that's democracy at work. So, let's say the revised document is presented to the members of the assembly and, let us also assume that we have appointed a committee to look at legislation and its impacts on the community and on the community purse. If we set up a committee of three members of this House then those three Members will take the Bill off and seek further input. Now, will they seek input from the same people who have already had their say, or will they go to another set of people. Now that's where I would like to start pointing out that the motion before us says that the Committee will ensure that the Bill is: consistent with the principles of natural justice. That may not be too difficult to ascertain but the Committee may seek legal advice. Where from? There is provision for outside counsel to be appointed with permission of the Speaker. There's no doubt a cost attached to that so that too must be justified. More likely, I suggest, is that the Committee will seek the advice of our own Legal Services Unit, part of the team which compiled the document in the first place. Duplication? Next point, that the bill does not trespass unduly on personal rights and liberties. That could be interesting and should result in lively debate within the Committee and possibly result in subjective opinion. Unless of course the Committee goes through the same process as I've already detailed and sought legal advice. Again, duplication? Third point. The Committee, as proposed, shall also decide whether or not a piece of legislation seeks to impose obligations retrospectively. One of my pet concerns and you know and one which is certainly obvious in terms of whether or not it exists in the document under consideration. The next point, that the bill have sufficient regard to Norfolk Island's traditions and culture. That too would be argued hotly. In respect of the Road Traffic Bill. Let's take that as an example and if you believe that the wearing, or not wearing of, a seatbelt or carrying children on the back of trucks, is a matter of tradition or culture for example. I suggest that, that then would become a subjective recommendation to the Legislative Assembly and a matter made more appropriately by the Assembly as a whole. The next point, that the Bill has objectives which could have been achieved by alternative or more effective means. That's always arguable and probably comes down to enforcement issues, however, it is a valid concern and one which is certainly deserving of consideration. The next point, that the Bill is sufficiently clear and precise and does not require elucidation. Either it is or it isn't clear and precise. I'm not convinced that it would take a committee to decide the question but more a matter of common sense. The next point. That the Bill contains no duplication, overlapping or conflict with other Acts. That's something upon which legal advice would need to be taken. In practical terms again I can only see that advice coming from our own Legal Service Unit.

The people who put the legislation together in the first place. Yet another duplication. Then the motion goes on to deal with costs associated with the implementation and operation of the legislation. That is something which should happen now but appears not to, despite repeated requests. Again that advice can only come from within the Public Service as it is they who one way or another enforce the provisions of the legislation. Now once it gets to the end of its deliberations the Committee will make recommendation to the Members of the House and they are under no obligation to take heed of that advice even if all three Members of the Committee are supportive of all the recommendations. So what has been achieved by this exercise? I have the distinct impression that it has moved in a circle. Of the seven requirements which this motion sets into place I see three as being duplications of action previously taken by members of the Public Service, one a matter of subjective opinion, one a matter for the assembly as a whole, one a matter for the Public Service to advise on and the only one left standing is that which asks whether the objective could have been attained by some means other than the legislation. That's the one I'm picking up on Mr Speaker. Could the recommendations be better handled by another process and I'm speaking about the recommendations in this motion now. I've come to the conclusion that a great deal of duplication and man hours could be saved by simply ensuring that a check sheet is attached to each and every piece of legislation which comes before us. A check sheet which assures us that each and every concern which is detailed in Mr Nobb's motion is has been addressed and that a statement to that effect is attached. Having rattled on to such an extent Mr Speaker, and thank you Mr Brown, I foreshadow my intention to seek leave to move an amendment to Mr Nobbs motion, one which will create the Committee but a Committee which will consider only that legislation which is referred to it by the House. I do see a process of duplication contained in Mr Nobbs' motion and I seek to avoid that. We have limited resources Mr Speaker and we must utilise them to best effect. Thank you Mr Speaker

MR BROWN

Mr Speaker Ms Nicholas has identified one of the greatest problems which exist in this place. She has identified the problem of believing that whatever comes out of the Administration is correct and so she says to us that in getting that checked it will be checked by the same people, they will say that it's correct and there will have been duplication. Now if that was a sensible way to check anything Ms Nicholas would be correct but with the greatest of respect, we may have a wonderful Legal Services Unit today and their advise might always be absolutely correct today. I can tell you though, some of the ones in the past haven't been as good as they are today and some of the ones in the future, without doubt will not be as good as they are today and I believe it would be a tragic mistake for Members to follow Ms Nicholas' suggestion that we should regard anything that comes from the Public Service as being correct. Because if that was the case why don't we let the Public Service do the legislating. What's our role? I would suggest to Members that we don't have a role if we are going to take a view that everything that gets put in front of us if it has a check list signed by someone in the Public Service must be correct. I'm happy to support Mr Nobbs' motion. There is some sense though in what Ms Nicholas has said to us. She has said to us that perhaps a bill should only go to the committee if it is referred to the committee. It's easy to imagine a situation where you could have some very simple bills that changed just a few words that had no financial impact that had no personal impact on any person and that really were just housekeeping type issues. Perhaps there's not a need for those to go to the committee. On the other hand, you would expect that they would be quickly dealt with by the committee but my point Mr Speaker is that the public service does not have a mortgage on accuracy, it does not have a mortgage on good Government, it has in the past shown that mistakes are possible. We have not always had people as competent as those we presently have in the Legal Services Unit and we should not simply say well the Public Service said it's right and therefore it must be. Thank you

MR GARDNER Mr Speaker in accepting Mr Brown's comments then it really just adds weight to the argument that whether it be advice from the Public Service or advise from a committee that's established to give some recommendation in relation to a piece of legislation that's before this House it really is at the end of the day, a matter for the nine Members sitting around this table to deal with and it has always been my view Mr Speaker that we don't have a parliament that is so large and unwieldy that we need to establish a committee to look at every piece of legislation and every regulation that comes before this House. We already have provisions that would give effect to Ms Nicholas's proposed amendments in the form of Standing Orders 155 or 159 that talk about the ability of this House to refer legislation to a committee for report

PIECE OF TAPE MISSING

MR NOBBS I've heard the Members around the table and therefore I'll move that debate be adjourned and the resumption of debate made an Order of the Day for a subsequent day of sitting

DEPUTY SPEAKER The question is that debate be adjourned and the resumption of debate made an Order of the Day for a subsequent day of sitting

QUESTION PUT
AGREED

The Ayes have it. Debate is so adjourned Honourable Members

FIXING OF THE NEXT SITTING DATE

MR GARDNER Madam Deputy Speaker I move that this House resolves a) to next meet at 3pm on Wednesday 18 August 2004 at a Ceremonial Sitting to mark the 25th Anniversary of the Inaugural Sitting of the Legislative Assembly: and the proceedings of the day be as ordered by the Speaker to observe the dignity of the occasion; and b) to sit on 19th August 2004 at 2 pm for the purpose of conducting its usual business. The Notice Paper for this sitting will close at 4 pm on 12th August 2004 and the Programme at 10 am on 17th August 2004

DEPUTY SPEAKER Thank you Chief Minister. Is there any debate. The question is that the Motion be agreed to.

QUESTION PUT
AGREED

The ayes have it, that motion is agreed to

ADJOURNMENT

MR NOBBS Madam Deputy Speaker, I move that the House do now adjourn

DEPUTY SPEAKER Is there any debate Honourable Members?

MR GARDNER Madam Deputy Speaker I would like to acknowledge the tremendous contribution of Chief Justice Beaumont to the Supreme Court of Norfolk Island and that I have been advised that he has resigned that role. I would envisage that a replacement for Justice Beaumont will be appointed by the Governor General in due course

and it's interesting Mr Speaker that the map of Norfolk Island hanging in the courthouse downstairs was gifted by the Chief Justice of the Supreme Court of the ACT to Justice Beaumont in his role as the Chief Justice of the Norfolk Island Supreme Court and it was Justice Beaumont's wish that, that gift be hung in the Supreme Court of Norfolk Island and it is well worth having a look at Mr Speaker, it is the reproduction of a map drawn during one of Captain James Cook's voyages of discovery

DEPUTY SPEAKER Thank you Mr Gardner, is there any further adjournment debate Honourable Members? There being no further debate I put the question that the House do now adjourn

**QUESTION PUT
AGREED**

Therefore Honourable Members this House stands adjourned until Wednesday 18th August 2004 at 3.00 o'clock in the afternoon

