



**NORFOLK ISLAND LEGISLATIVE ASSEMBLY
11TH NILA HANSARD – 19 OCTOBER 2005**

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

CONDOLENCES

We move to condolences, are there any condolences this morning? Mr Tim Brown

MR T BROWN Mr Speaker it is with deep regret that this House records death of Kenneth Cochrane who was born in Sydney on the 27th October 1950 and died in Buenos Aires, Argentine in late September 2005. Ken came to Norfolk Island with his wife Joy and was a resident for many years. Ken was a builder of renown and he loved working with local materials, especially with blue stone, and many examples of his work can be seen around the Island. Ken had two children from a previous marriage, Steven and Julie; he was stepfather to Naomi and Josie and father of Steve Benjamin. To Ken's beloved wife Joy, to Steve, the members of Ken's family and to his many friends this House extends its deepest sympathy.

MR SPEAKER Thank you Mr Brown. Honourable members as a mark of respect to the memory of the deceased, I ask that all members stand in silence please. Thank you Honourable members.

PETITIONS

We move to petitions. Are there any petitions this morning?.

GIVING OF NOTICES

Are there any notices?

QUESTIONS WITHOUT NOTICE

Are there any questions without notice?

MR SHERIDAN Mr Speaker thank you. Firstly a question to the Minister responsible for customs. Minister does the customs Department have the capability and equipment at this time to x ray or scan parcels and baggage entering Norfolk Island either by land or sea for prohibited items and drugs

MR NOBBS Mr Speaker the answer is yes but they haven't been put in place at this stage because of the area at the airport but we are looking into enlarging the entry hall at the airport to accommodate the baggage scanning arrangements

MR SHERIDAN Mr Speaker a supplementary there. considering this equipment this x ray machine and I believe an iron scan machine for utilising drugs has been in the Customs Office there for some months now, wouldn't it be plausible to set this equipment up in the rear of the Customs shed so that it can be utilised for incoming mail at least before the building is completed to fit it at the airport. This could take some time

MR NOBBS Mr Speaker the iron scan machine and also the baggage x ray machine are still required to have some work done on them I understand with expert – I can't think of the word but it really means that it needs to be calibrated and that will be occurring in the not too distant future. I spoke to the Collector of Customs yesterday actually and I understood from him that it would be in the next week or two that the calibrations would occur but certainly for parcels and the like they could set the baggage one up at the back of the customs hall but we were really looking to progress an extension of the entry hall if possible

MR SHERIDAN Mr Speaker thank you. A question for the Minister responsible for social services. Minister now that you are personally involved with the procurement of a full time generic counselor can you inform the community when this counselor will be commencing work on Norfolk Island

MR BROWN Mr Speaker thank you. There are two people working on a part time basis on that at present. Last Tuesday I had a meeting with the Salvation Army in Sydney to progress the issue. I have drafts of a number of the plans now and the next stage is to finalise those plans, the position description and advertise seeking applications for the position. I would hope that before the time of our next meeting those advertisements will have been placed

MR SHERIDAN Mr Speaker I have one for the Minister for Finance. Minister considering all the rumours abounding in the community on the monetary ability of the Government, could the Minister explain for the community's sake the current state of the Norfolk Island Government's finances

MR NOBBS Mr Speaker thank you. I will reiterate what I've said in the past in relation to our finances. We went into this financial year with a deficit of must under \$2.3 and \$2.2m. it was my belief at the time and I said it to Members that we needed to do a budget review. That budget review is partially complete. Unfortunately I had intended to bring it forward for this meeting but unfortunately other commitments precluded this including a visit of the auditors which is an annual event and nothing startling to audit last years books and the situation is that we need to raise more funds and that's the line that I've taken all along. We are reducing the current budget at the Administration and at this point in time it's still well in the red I can tell you that but we are reducing it but there is still a need for additional funds and I've said it right from the start. We also must remember that the island has been in a bit of a downturn and of course, in the income to the Administration and we've seen customs estimates which were possibly a little high but in May we didn't realise that the downturn would be as significant as it was and that has impacted on our finances as well because the income is not there, although whilst customs are down, other income is up so that we are behind as I will read out in a minute when I table the financial position, we are about \$110,000 behind at this quarter so actually if we keep up at that rate, if we don't do anything we'll be up around \$2.6m so we need to put in a budget review and I would hope that it will be available in November. I said in June that something would be done and early in the financial year, earlier than we would normally do a budget review because we just couldn't sustain the current budget of \$2.2m. I know that a lot of people are running around and saying, and I had a tourist visit me yesterday and said he went into every shop and the island's broke and all that. We are not broke. I've said that all along but if people want to go down that line well that's the way it is. We are not broke. But we need to adjust our expenditure and we need to look at more funding.

MR SHERIDAN Mr Speaker I'm sure that the Minister in what he's saying...

SPEAKER Do you have a question Mr Sheridan

MR SHERIDAN Mr Speaker yes I do. I'll leave that one but I have another for the Minister responsible for public health. This question has a couple of parts to it so I'll read them out and I'm sure that the Minister will be able to answer them in one go because the questions overlap. How prepared is Norfolk Island should we get an outbreak of the avian flu

virus and what plans if any have been or will be put in place should an outbreak occur? How much research has been undertaken in relation to the avian flu virus considering the number of birds that fly into Norfolk Island each year and has there been any communication between the Norfolk Island Government and the World Health Organisation in relation to the virus, thank you

MRS JACK

Mr Speaker, a plethora of questions. I'll do the best I can. I've been in talks with the Service during the week on this topic and so I can read out some words that have come back to me if I may. There are a number of possible transmission paths by which H5N1 Avian Influenza could arrive on Norfolk Island. Perhaps the most likely path is travelers returning from infected areas or the importation of infected goods from an infected area. These potential pathways are controlled by Australian, New Zealand and Norfolk Island quarantine protocols. Astringent measures to quarantine and control outbreaks of H5N1 Avian Influenza are implemented there should be little chance that persons or goods destined for Norfolk Island could become infected or carry infected material. It has been suggested that the current outbreak of H5N1 Avian Influenza and Domestic Fowl and Turkey in Romania have been triggered by infected wild birds migrating from infected regions in Asia. That still is a hypothesis which is not supported by scientific evidence however this remotely potential pathway for H5N1 Avian Influenza to Norfolk Island requires the H5N1 Avian Influenza infection of wild migratory birds whether wild or domestic and sufficient survival fitness of the infected birds to successfully migrate to Norfolk Island. One or very few individuals of the following wild bird species have been found to have been infected with the avian influenza virus in Asia since 2003 and or in May to July in 2005. these are the by headed goose, brown headed gull, great black headed gull, great cormorant, ruddy shell duck, peregrine falcon, grey heron, little egret, open billed stork, mallard, magpie, not the Australian magpie, and jungle crow. How these birds came to become infected and whether the infection was passed on to other birds was not known. None of the above species migrate from Asia to Norfolk Island however mallard ducks banded on Norfolk Island have moved between Norfolk Island and New Zealand or less frequently New Caledonia. Migratory water fowl, ducks and geese, are considered to be the most likely possible carriers of H5N1 Avian Influenza. No water fowl migrate to Norfolk Island. There is a small number of wader or shore bird species that migrate from Northeastern Asia to Norfolk Island each year arriving in September to October and departing April to May. The most common species, perhaps 200 to 300 birds is the Pacific Golden Plover which favours short grass pastures such as the airport, Kingston playing field and the reef at low tide but not as much the edges of ponds along the beaches. The ruddy tern is probably the next most common migratory wader that regularly visits Norfolk Island. This species can most commonly be found on the playing field at Kingston, around ponds on the reef at low tide and on the Kingston pier at high tide. It appears that perhaps up to 100 wimbrall migrate to Norfolk Island. These waders occur in pastures and playing fields, around ponds and on the reef and beaches at low tide. Others occur at the airport. By tailed goldwit migrating to Norfolk Island have declined significantly in numbers over the past seasons with perhaps less than five visiting last year. Now they prefer wetter pastures, the Kingston playing fields and reef. Other waders also occur in small numbers such as the tattler, curlew, sandpiper, sharp tailed sandpiper and red knot. A number of migratory waders visiting Norfolk Island appears to vary from year to year but the total birds of all species is only a few hundreds. Migratory waders that visit Norfolk Island breed in the higher latitudes of the northern hemisphere such as Siberia usually in areas remote from human habitation and in habitat not used by domestic fowl. It is possible that while on their breeding grounds these species could become infected with H5N1 Avian Influenza from other wild birds but the probability is very low. As they migrate south waders may stop over at estuaries and tidal flats in southern China the Philippines and other islands en route to Norfolk Island and in New Zealand. Some of these stopovers might be in moderately close proximity to human habitation and thus domestic fowls such as chickens and ducks. H5N1 Avian Influenza has not been isolated from any migratory shore bird species today however, it would seem that there is a theoretic possibly that a migratory shore bird could become infected with H5N1 Avian Influenza virus in South East Asia and continue its migration to Norfolk Island. The possibility of that happening appears to be vanishingly small given that the virus has not yet been isolated from any species of shore bird and the great distance much of it over water of the migration path that must be followed to reach Norfolk

Island and the very small number of migratory waders that visit the island. The New Zealand Ministry of Agriculture and Forestry's current assessment of the risk of the migratory and shore birds bringing avian virus to New Zealand is as follows. That other migratory birds other than water fowl such as shore birds including the bar tailed godwit, pacific golden plover, lesser knot, ruddy tern etc is that estuaries along the Asian coastline, Philippines and Australia on their annual migrations south from arctic Russia, they are not water fowl and are not regarded as a high risk for introducing H5N1 Avian Influenza into New Zealand. During the past decade or so small number of cattle egret have appeared on Norfolk Island for a few months of most years. It is most probable that these birds have come from Australia or New Zealand and H5N1 Avian Influenza has not been isolated from cattle egret to date. Even though it appears to be extremely unlikely that H5N1 Avian Influenza could be introduced into Norfolk Island by wild birds it is prudent to keep a watchful eye out for any dead birds on the Kingston common, dead migratory waders, taala birds, which is the swamp hen, ducks, domestic or feral, geese or chickens other than from road kills or some other obvious traumatic cause be monitored. Advise would be sought from the appropriate Australian authorities and samples taken for analysis if unusual or mass bird deaths are observed and there are several actions that could be taken if this were to happen. Culling and appropriate quarantine disposal of ducks, all mallards, the introduced species, and domestic feral geese and fowl and the restriction of human activity on Kingston playing field and the wetlands where people could come into contact with the faecies of infected birds. I'm just letting you know that the service is keeping a watching brief on developments overseas particularly with regard to wild birds as vectors and will continue to monitor migratory waders, water fowl and other birds on Kingston common. I would also like to say that we are putting protocols in place should anything occur. These will be in line with the Commonwealth and it may be necessary to get certain pieces of equipment in, such as masks, disposal body clothing and so on but we are after the best case scenario to work with the Commonwealth and should the H5N1 Avian Influenza turn up a pandemic would occur, a lot of those would be because of the close proximity of the fowl to the living quarters in certain countries, thank you

MR T BROWN Mr Speaker I'm glad Mr Sheridan asked that question because I was about to ask the exact same thing. My only supplementary question on that matter is to the Minister for the Environment, does that mean its safe to eat the whale bird eggs this season

MRS JACK Yes. Yes

MR T BROWN Mr Speaker I have another question for the Minister for the Environment. Minister is it a fact that the Australian Federal Government intends to place conditions on the free holding of leasehold land including conditions retaining for the Commonwealth any mineral rights in relation to that land and if so, what actions does the Minister intend to take

MRS JACK Mr Speaker, in response to Mr Tim Brown's question I know that some conditions have been placed on certain transfers of land and that was with the full knowledge and acceptance by some landowners in their willingness to protect certain bits of vegetation on land. I'm not aware of other matters that he has mentioned so I would have to take that on notice

MR T BROWN Mr Speaker this is a question to the Minister with responsibility to the airline. Minister is it a fact that the Norfolk Island Government had an alternate air carrier prior to the closure of Norfolk Jet and if so, when does the Government intend it to start operation

MR GARDNER Mr Speaker I'm not aware of any alternate carrier that was in place prior to the closure of Norfolk Jet otherwise I would imagine that they would be flying now. As far as an alternate carrier to that which is currently in place Mr Speaker it's widely known both within this forum and in the community that we are currently under discussions with Jet star in relation to the provision of services to Norfolk Island. Those

discussions are ongoing but they are in my view positive. We have also had approaches from three other potential carriers in recent times. There's a major carrier servicing the pacific and there's been two other independent approaches from groups that are not recognised carriers at this time, in fact, one doesn't operate aircraft at all at this stage

MR T BROWN Mr Speaker this is a question for the Minister with responsibility for policy or the Minister with responsibility for roads or both. Minister is it true that there is an unacceptably high number of unregistered vehicles on our roads and if so what actions does the Minister intend to do to combat the problem

MR GARDNER Mr Speaker my understanding is that the police do regularly review non registered vehicles as part of their duties as I understand it. They are provided with a list from Registry of unregistered vehicles and it's a matter that is addressed in their normal duties

MR NOBBS Mr Speaker if I could add to that. There's been a problem in identifying unregistered vehicles and that the current stickers were brought in recently to assist in that particular area and that won't take up for another six or seven months I think and then all registered vehicles will have stickers but I haven't been advised that there is an inordinate number of unregistered vehicles on our roads. I know there have been some and the police have actually or whether they are taking action or not I'm not too sure but there have been some that have been found in the last few months or so

MR T BROWN Mr Speaker one final question to the Minister with responsibility for tourism. Minister once again we have seen Tourist Bureau advertisement which seem to be aimed at a different segment of the tourist industry than is our market at the moment. Is the Tourist Bureau trying to abandon their current market and if not when can we expect to see some advertisements aimed at this segment of the marketplace that we currently have

MR GARDNER Mr Speaker the answer to the first question is absolutely not. The answer to the second question is I guess in light of some criticism that may have been leveled at the Tourist Bureau with the ad campaign, as I said on radio yesterday, I'm heartened that our advertisements are actually getting a positive response from people the new 1800 number that's been introduced into the Tourist Bureau in the ad campaign has had significant response from the market at large. I see that as being positive. People will certainly have criticisms of anything that happen whether it's the size of bus that you use to run a tour, whether it's the quality of food that you might have in a restaurant, whether it's the quality of accommodation or the advertisement that you put out, there's always going to be people who are for and against all of those types of initiatives right throughout the industry and I understand that people won't be comfortable with the type of advertisements that are out there. I think it is a recognition that we are facing a significant decline in visitor numbers to Norfolk Island and every attempt is being made to grow that market and to source visitors from every source that is possible. As I said in my opening remark, there is no concerted effort to move away from the market that has been our growth market for tourism over a number of years now. It is really a matter of complementing that market now with a new emerging market that's certainly coming into force around the world

SPEAKER Any further questions without notice Honourable Members? No further questions without notice.

PRESENTATION OF PAPERS

Any Papers for presentation this morning.

MR BROWN Mr Speaker section 28(a) of the Healthcare Act requires me to give notice to the Legislative Assembly in the event that I make various decisions under

the Healthcare legislation. I recently made a decision and I table a copy of my memorandum to the Healthcare Manager in that regard

MR GARDNER Mr Speaker in accordance with section 41 of the Interpretation Act 1979 I table the Associations Incorporations Regulations 2005

MR NOBBS Mr Speaker I table the Financial Indicators for September 2005, and move that the paper be noted that they be noted

SPEAKER The question is that the paper be noted

MR NOBBS Mr Speaker at the 30th September 2005 this year the position of the revenue fund overall income is 95.8% of the first draft revised budget, bearing in mind that we haven't had that document as yet as it's not completed, and that is still, \$110,000 short of the budgeted arrangement for that first draft and that's what I explained earlier that we are still behind. Customs duty is \$123,000 short of budget and the sum total of other tax categories is \$60,000 over budget. Departure fees are \$60,000 short but FIL receipts and land titles fees are \$15,000 and \$137,000 ahead of the budget respectively. On the expenditure side at the end of September the overall expenditure on a pro rata basis is about 0.4% which is \$13,000 under the revised budget. However the payment of Social Services benefits are \$43,000 over budget for the first quarter which equates to something like \$172,000 per annum. This figure does not allow for any increase in benefits which are reviewed in July and January. In addition medical expenses for social services recipients are \$72,000 over budget at the end of the first quarter. At the end of September 2005 the overall revenue fund budget has an estimated deficit of \$508,000 which is on a pro rata basis is \$97,000 less than budgeted. Thank you Mr Speaker

MR CHRISTIAN Thank you Mr Speaker, the financial indicators that have just been tabled indicate on an annualized basis that the deficit for the financial year would be about \$1.645m and yet the Minister in response to a question without notice said that the deficit could be as high as \$2.6m so it's a million worse than what's indicated here. I wonder if the Minister could provide some form of explanation

MR NOBBS Mr Speaker certainly. The figures that I read out were actually prepared by the Finance Section. They are the first draft of the revised budget and I said that is not complete and at this stage as I explained earlier, against the current budget that's in place we would be looking at, if revenue continued at the same rate and expenditure continued at the rate budgeted we would be \$2.6m short. We pulled that back to the first of the revised budget to \$1.6m so we've actually reduced it by \$1m. now I indicated earlier and this is several months ago that I believe that we could reduce the budget deficit of \$2.2m in half but there was a need for additional funding to cover the rest of it I believe otherwise, we would have to reduce services significantly. That is, if we were aiming to have a balanced budget. Now a balanced budgets occur from time to time down here, not all the time as you are well aware Mr Speaker. We've had deficit budgets and we've ended up in the black and if you look at it over a lengthy period you find out that really it virtually balances itself out, over a period of years I'm talking about so it's a deficit budget in itself is serious, but not a really serious issue. Multiple deficit budgets become a problem and I just want to say that all countries in the world go through the same sort of problem. There's nothing new here and if you look at the American situation you'll find that they are consistently in that problem but that's where we are at. This one here for Mr Christian, I'm sorry I probably didn't explain it properly, the figures that we are looking at the \$1.6m is the first cut of the first draft of a revised budget

SPEAKER The question is that the paper be noted

SPEAKER 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 Mr Speaker under subsection 31(4) of the Legal Aid Act 1995 and clause 12 of the Memorandum of Understanding between the Commonwealth of Australia and Norfolk Island I am required to table a report addressing the matters specified in that subsection. Those matters include a report of the Legal Aid Advisory Committee for the above period relating to its activities for that period and Mr Speaker might I say that, that period is from 1 January 2005 to 30 June 2005. Secondly all recommendations of the committee that have been accepted a statement of reasons for the non acceptance of recommendations. Thirdly that no legal assistance has been provided to a body corporate and also enclosing a summary of the financial records of the fund in relation to that period and I table that report

One further paper if I may Mr Speaker, its following on from last month and the revised format for reporting arrival statistics to the Legislative Assembly. It also includes an activities report by the Tourist Bureau for that month. I table that report and move that it be noted

SPEAKER The question is that the paper be noted

MR GARDNER Mr Speaker as I said this follows on from last months introductory offer as far as a report of the activities of the Tourist Bureau and arrival statistics. It goes without saying that the visitation numbers to Norfolk Island still remain below levels that we've enjoyed probably the last five or six years and as I'm sure all Members will be aware gives rise to concern and certainly the Minister for Finance as far as revenue is concerned. As far as the content of the report it sets out for information and this is an ongoing evolution of this report but in this report includes media schedules for advertising and suchlike within both Australia and New Zealand and some copies of the overwhelming endorsed by our marketing and promotional partners and wholesalers Mr Speaker in the new advertising format for Norfolk Island which as I said earlier in response to a question is getting very positive response from the industry as a whole at this stage and certainly with being done in conjunction with the 1800 number that now runs directly into the Tourist Bureau is positive response. Certainly knowing that Mr Tim Brown had raised a concern about the content of such advertising there's nothing in there that I can see, but I stand to be corrected, about those types of things that are already established in the market and is enjoyed when people visit Norfolk Island including the tax free shopping and the restaurants and certainly the views and vistas that are able to be enjoyed on Norfolk Island and some of the historic aspects of the island. The attachments to that also incorporate that new advertising arrangement with the promotional type aspects which have been in place now for a couple of years and tourist brochures and all in all I've only had positive response to that Mr Speaker directly from the industry

MRS JACK Mr Speaker, last week we received John Morse, ex chairman of the Australian Tourist Commission, CEO I beg your pardon, who joined in with Peter Cochrane on his National Park visit. John Morse was heavily involved in eco tourism and I know that he spoke with the Chief Minister and with the General Manager of the Tourist Bureau. I'm just wondering what new dimensions did he possibly give to the overall view of eco tourism to Norfolk Island and can we travel along another paths as well

MR GARDNER Mr Speaker I'm happy to address that. Yes John Morse was here last week and we took quite some time to have some very broad ranging discussion on I guess the potential for tourism on Norfolk Island. He's very excited about it obviously in an eco tourism sense but he certainly recognises the untapped potential at this stage for even further increased tourism potential for Norfolk Island over and above that, that he recognised on his first visit to the island I think back in about 1998. He has certainly provided encouragement to us to embrace the assistance of our nearest neighbours and particularly in relation to Tourism Australia and in looking at seeing where our activities can I guess neatly and tidily mold with those activities that are undertaken by tourism in Australia and basically to assist us in gaining exposure both in the Australian market and further a field

than that and that is obviously something that we need to give some further consideration particularly as the Minister for the Environment has pointed out that the eco tourism arrangements if and when Norfolk Island decides to pursue National Heritage Listing and obviously subsequent to that World Heritage Listing and the potential benefits that may have for Norfolk Island. I'm not saying that's happening, I'm saying those are things that need to be considered in our long term strategy for tourists to Norfolk Island, there exists real potential and it was very worthwhile having those discussions with John Morse last week. Very positive

SPEAKER The question is that the paper be noted

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

QUESTION PUT
AGREED

The Paper is noted. Are there further Papers

MR BROWN Mr Speaker I did want to table an exposure draft of a proposed Marine Safety Bill. Would now be an appropriate time to do that. Mr Speaker I table two drafts. One is a complex draft, the other is a simpler draft but each draft is a draft of a Marine Safety Bill. It includes a detailed statement of the proposal and of its potential impact. It includes an index and it includes the Bill itself. The Bills provide for registration of vessels, and they also provide a fee paying system. At least one of the bills includes those. The other bill as I said is not as extensive and it seeks only to regulate behaviour in terms of marine safety. Mr Speaker more and more of our visitors are finding it attractive to make use of glass bottom boats, to make use of trips to Philip Island, to make use of fishing trips. To make use of a kayaking adventure that is available to them and generally to engage in activities which have been unregulated in Norfolk Island until now. If we are serious about providing not only a good experience to our visitors but also a safe experience, we need to come to grips with the need to legislate in the area to provide for registration and as a consequence of that, perhaps to provide for the payment of fees. Many members of the community will take a view that the area has been self regulated for a long while and that, that shouldn't change. And that's a view with which one must have a lot of sympathy but it's unfortunate that it only takes a few people failing to maintain those standards which have been set by the others for everyone to suffer. Mr Speaker the two versions of the bill are tabled as exposure drafts. I hope that interested Members of the community will take the time to have a look at them, and once there has been time for some public comment, Members will be able to discuss them and decide which if either of the bills is to proceed to being tabled in the house, thank you

SPEAKER Thank you Mr Brown Are there any further Papers this morning Honourable Members. We have concluded Papers and we move to Statements of an official nature

STATEMENTS OF AN OFFICIAL NATURE

SPEAKER Any Statements Honourable Members?

MR NOBBS Thank you Mr Speaker I wish to make a statement on telecommunications. As you are aware the last Government initiated a consultancy to advise on telecommunications strategy over the next ten years. On taking office the current Government proceeded with the consultancy and Members in recent days were brief on the outcomes. Telecommunications Norfolk Island style has certainly gone a long way from the odd phone dotted around the island to today's high speed access to the internet and crystal clear access to international telephone communications. I recall going to Australia as a youngster and not knowing how the phones actually worked and it took me some time to get over the fear of this new contraption and now I have a line in for the phone, a second for the fax, the internet and three mobile phones sitting in a drawer waiting for the next trip off the island. As a

community we quite rightly demand to update communications and a consultancy was aimed at recommending a path for the immediate future. For years now telecommunications has been used by succeeding Governments as a major source of revenue largely through a high charge rate on international calls. High international call rates provided much needed funds to the Government and whilst it also allowed local calls to be free of charge there was an impact on demand and benefits curtailed. With the rapid change in telecommunications in the past the ongoing viability of Norfolk Telecom as not only a taxation source but also a service provider has been seriously questioned. It was recognised halfway through the last decade that there was a need to vary the operational arrangements of Norfolk Telecom. The possibility of a change of direction at the time included a process which would allow Norfolk Telecom an opportunity in due course and if we so desired to provide for its own carriage off island. The undersea cable to be replaced by satellite for the carriage of signals, greater emphasis on provision of services through internet and a proposal to install a mobile phone system. Whilst the internet capability was expanded the proposal to install mobile phones was discontinued due to community concerns at the time. A proposal to institute local call charges was not proceeded with by a previous Legislative Assembly which shows in increased rental charges instead. As stated earlier the change in telecommunications has been significant and thus to provide some guidance in the immediate future expert advice was sought. A consultancy was let to Price Waterhouse Cooper to prepare and provide a report. The report very simply stated the Norfolk Telecom could not remain viable if it were to pursue its current strategies. The expectation to provide dividends to the community in the past was not sustainable and nor was the provision of services that are expected now and also into the future. My reading of the report suggested our progression under current arrangements is a recipe for disaster and there is a clear need for a change in strategy. I think we all could see what was occurring. In that context we sought from the consultants a path to the future. In a nutshell Mr Speaker the report on the path to the immediate future has been fairly simple and straight forward although the technical issues have been complex and challenging. A significant issue is that the current five year REACH agreement related to carriage ceases next year and the time has come to enter negotiations as to carriage arrangements post the current agreement. The report stated that developments in technology in recent times provided opportunities for Norfolk Telecom to offer a wider range of telecommunications options to the island. The report recommends investment in wider availability of broadband activity with a cellular mobile access, entertainment possibility especially over broadband, cheaper international phone calls, possibilities in accessing mainland facilities at affordable rates and the possibility of other exchange services and functionality. Certainly some significant points there Mr Speaker. Three of them of major significance at this stage involve the broadband activity, cellular mobile access and cheaper international phone calls. Broadband activity is seen as a key issue by the consultant for a number of reasons, not the least is the business opportunities. I guess it's only of late that this particular aspect has made any significant progress on island but the consultants are convinced there are major opportunities for expansion in this area particularly to niche markets. Revenue from international calls is falling due to the high cost and this in turn is impacting of Telecom's dividend to Government, a dividend which is crucial to Government finances and need to be maintained. The island's current mobile system is congested. Demand has outstripped capacity and customers await connection. It's not a user friendly system and there is no confidentiality. The consultants look to a gsm mobile phone system with international roaming capabilities as a means of assisting in revenue maintenance. The proposal by the consultants to institute a gsm mobile system is based on 1) replacement of the current inadequate system designed specifically for emergencies, meeting demand locally and by visitors and providing other sources of funds through gsm global roaming opportunities. The Government and indeed the Legislative Assembly sees this as a major part of the path we need to take and we should be up front about this proposal so that we may institute a system with some haste. Mr Speaker I commend the report to Members and look forward to their support in implementing the recommendations which will give Norfolk Island a modern and efficient telecommunications system. Thank you Mr Speaker

MR CHRISTIAN
statement be noted

Thank you Mr Speaker, can we move that the

SPEAKER

The question is that the statement be noted

MR CHRISTIAN

Thank you Mr Speaker, and thank you Mr Nobbs for enlightening us with the content of the consultants report. I have to say that the report didn't tell us anything that we didn't already know and we actually forked out a lot of money for that privilege. Mr Blackwell probably told us all the information for free. One aspect that concerns me about the recommendations that the consultants have come up with is that in order for Norfolk Telecom to continue to be a major source of revenue for the Administration we need to strengthen Norfolk Telecom's monopoly on telecommunications into and out of Norfolk Island and there is no doubt there is one option. I'm surprised that the report remains silent on the other option and that is that the Administration divest itself of all interest in telecommunications and let anybody who wants to provide telecommunications to Norfolk Island to do so and for the Administration to become a taxing authority. If you look at the situation that we have at the moment, we have Norfolk Telecom operating as a GBE, a stand alone business with some similarities to a private corporation. It covers its expenses, makes a modest profit for itself and then the government taxes 100% on top of that as its dividend so the Government can do that to any operator of a telecommunication system whether it be owned by the Government or Joe Bloggs down the road and that is one option that we should probably pursue because it allows us to collect revenue without the cost of providing the capital, the equipment in the first place and I think it's high time that we got smarter in how we do business on Norfolk Island rather than trying to protect everything in the national ownership

SPEAKER

statement be noted

Thank you Mr Christian. The question is that the

QUESTION PUT
AGREED

The statement is noted. Are there further statements this morning

MRS JACK

Mr Speaker, I wish to make a statement in regard to the Norfolk Island Plan 2002 and in particular to residents dual occupancy. It is my intention to prepare a draft plan seeking a variation to the Norfolk Island Plan. The variation will be to delete residents dual occupancy as an option from the Norfolk Island Plan. The deletion will also relate to all associated regulation legislation and development control plans where dual occupancy is referred to through either definition or inclusion and I ask that the statement be noted

SPEAKER

The question is that the statement be noted

MRS JACK

Mr Speaker, my proposal to vary the Norfolk Island Plan will follow the requirements as set out in the Planning Act, namely to consult with the public. I will invite public submissions about the draft plan by notice given in the Gazette and the number of submissions together with the concerns raised will determine if greater consultation is required. Mr Speaker no earlier than 28 days following notification in the Gazette I will have to bring to the House a copy of the draft plan and a report on the public consultation process including copies of submissions received during that process and following the presentation of the draft plan the Legislative Assembly will then by resolution either approve the draft plan, approve the draft plan subject to amendments or reject it. Mr Speaker the act mentions 28 days as a minimum and it is my opinion that the process will most certainly require a greater time frame. Mr Speaker the reason behind my proposal is that while the option of being able to build a second dwelling, dual occupancy on a portion has been an option for some time, problems are occurring. Problems through two main areas, marital relationship breakdown and two or more owners left dual occupancy property through a bequest. In a marital or relationship breakdown there is no way of sharing or splitting the property giving both parties equal title and this can lead to financial difficulties for one or both parties. Where the land is left through a will or through testate there is no way of taking out a mortgage by one of the parties without involving all parties. In my opinion there is a need for

guaranteed title for every dwelling and the provision of dual occupancy does not allow this. I'm expecting other issues to be brought forward with this proposal and that one of those would be the desire to be able to maintain the ability to build a granny flat, and that certainly is not my intention to have this type of dwelling deleted but I would also like to stress that a very tight definition would need to be given to the term granny flat and to its placement on the portion. There would also have to be very strong legislation that would clearly state that some time down the years, a granny flat could not be excised from a portion and given guaranteed title. In other words, no future subdivision by stealth. People may note that later in today's meeting I have placed a motion before the House asking that legislative work be done to introduce community or cluster subdivision as well as a strata title subdivision to be included. Mr Speaker I see this statement and that motion working together, moving along similar paths whilst also allowing the much needed review on what is at times very emotive subjects for the community. Those are guaranteed title and subdivision. My personal expectation is that greater options will open up to families in providing land with guaranteed title while maintaining the overall environment so important to us all. Thank you

SPEAKER The question is that the statement be noted

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

QUESTION PUT
AGREED

The Statement is noted. Are there further Statements

MR GARDNER Mr Speaker just a brief statement in relation to the Tourist Accommodation Ownership Act. Mr Speaker the Tourist Accommodation Ownership Act addresses a number of issues but includes I guess a restriction on the ownership of tourist accommodation by persons not normally residents in Norfolk Island or by those considered to be foreign. Mr Speaker in a number of arenas in recent weeks the issue of the ownership of tourist accommodation has arisen. Particularly in relation to the flexibility of the accommodation industry in Norfolk Island to adapt to changing demands and markets elsewhere and changing demand for various levels of service within Norfolk Island. The current restrictions imposed by the Tourist Accommodation Ownership Act possibly inhibit development simply because of lack of available resources to persons within Norfolk Island and possibly inhibit some of the international branding that may occur for destinations that are experienced elsewhere and that is in line with hotel chains and other type of accommodation chains worldwide that have massive potential for promotion and marketing and obviously provide potential for Norfolk Island. The purpose of the statement this morning is not to take one side or the other but open up the issue for debate, discussion and consideration by Members and the wider community about those ongoing arrangements within the Tourist Accommodation Ownership Act and whether the industry as a whole has matured to such a degree now that there is no longer that requirement. Certainly the arguments may well be those that were originally the reason for the promulgation of those provisions with the Tourist Accommodation Ownership Act where it was envisaged that it would protect tourist accommodation for local residents and they were all obviously things that people had various views on. Mr Speaker it's been raised with me in the context of being the only business on Norfolk Island that has such restrictions placed on it. There are no restrictions on the major supermarket, the major hardware suppliers, the tourist industry as a whole elsewhere on Norfolk Island whether it be running tours or the like or even to the ownership of land and I know from different times people have looked at opening it up and people have looked at closing it down and putting types of restrictions on it. I'm bringing this forward Mr Speaker in the hope that we can have some discussion and debate over time rather than bringing a draft bill to the House to look to repeal those provisions which is a very easy exercise but I think it's a discussion that needs to be had, particularly in light of some of the other legislation that we might be discussing today to do with business transactions, particularly in light of the current state of the economy and maybe the need to look for some injection into the economy to further develop the tourism industry and hence the benefits that

flow to the Minister for Finance coffers. Currently the system, just to provide some background information, currently the system doesn't prevent somebody from offshore or foreign ownership owning tourist accommodation in Norfolk Island how its currently handled under the provisions of the Act at the moment is that necessarily a motion comes before the House and the Members sit around the table and the numbers determine whether somebody is going to be given that flexibility. Now that may well be a position that Members are comfortable with and should continue that way. There is also an alternate mechanism for people from offshore to own tourist accommodation in Norfolk Island and that's going through the provisions of the Immigration Act and securing a General Entry Permit and subject to the General Entry Permit being approved I guess by default for want of better words, provides them with the opportunity to be able to own tourist accommodation in Norfolk Island. Mr speaker as I said there is no firm position one way or the other on this but I think it's timely that there be some discussion on it. I'm not proposing that we go into detail on that today. Suffice to say that I'm prepared to look at it and to have some discussion about it. It may raise other issues in line with trying to stimulate growth in the economy. It might not be the answer but it's a starting point and I would be interested in both Members views about it around the table and views from the community. As I said, I've brought it forward for discussion and consideration. There is no firm proposal one way or the other in relation to it. Rather than to open up to debate and have some discussion about how we can, this is just one brick in the wall so to speak, about attempting to stimulate the economy. It might not be the right mechanism. I would be happy with that, if that was the view but I just open it up to debate rather than remain silent on the matter, thank you

Are there any further Statements of an official nature. No. Then we move on

MESSAGE FROM THE OFFICE OF THE ADMINISTRATOR – NO 20

SPEAKER Honourable Members I have received the following Message from the Office of the Administrator. There are three this morning. Firstly Message No. 20 On the 20th September 2005 pursuant to section 21 of the Norfolk Island Act 1979 I declared my assent to the following, the Fuel Emergency Act 2005 which is Act No 20 of 2005 and that message is dated the 21st September 2005 and signed Grant Tambling, Administrator

MESSAGE FROM THE OFFICE OF THE ADMINISTRATOR – NO 21

Message No. 21. On the 27th September 2005 pursuant to section 21 of the Norfolk Island Act 1979 I declared my assent to the following, the Associations Incorporation Act 2005, Road Traffic (Amendment No 2) Act 2005 and the Legal Professions (Amendment) Act 2005 and that message is dated the 27th September 2005 and signed Grant Tambling, Administrator

MESSAGE FROM THE OFFICE OF THE ADMINISTRATOR – NO 22

Message No. 22 the third of the three messages, reads this, on the 6th October 2005 pursuant to section 22 of the Norfolk Island Act 1979 His Excellency the Governor General declared his assent to the following, the Legislative Assembly (Amendment No. 1 Act 2004, which is Act No 24 of 2005. Message No 22 is dated the 13th October 2005 and signed Grant Tambling, Administrator. Those are the three messages Honourable Members

PRIVILEGES COMMITTEE

Honourable Members, the Privileges Committee has reported that an inquiry is under way pursuant to the provisions of the Legislative Assembly (Register of Members Interest) Act 2004 and this report is made pursuant to section 12(1)(d) of that Act.

Honourable Members, we are now commencing Notices

AMENDMENT TO SUBDIVISION ACT 2002 AND LAND TITLES ACT 1996

MRS JACK Mr Speaker I move that the Minister for the Environment is requested to bring to the House a Bill for the inclusion in either a separate Act or the Subdivision Act or Land Titles Act of provisions that will provide for persons to apply for the registration of cluster title subdivisions or other forms of community subdivision that may enable the creation of subdivisions that are able to fit within the parameters of the Norfolk Island Plan and provide the community with a greater freedom of habitation style than is presently available.

SPEAKER The question is that the motion be agreed

MRS JACK Mr Speaker, I wish to inform the House and the community that this motion proposes changes to the plan which will involve alternation to the kinds of subdivision currently permitted on Norfolk Island. I believe the present provisions for subdivision are insufficient and ill prepared to allow for a reasonable regime of subdivision and propose that a series of changes that will give attention to such issues as forms of subdivision that may be appropriate for persons who do not wish or unable to live on large allotments and also for communities style subdivision such as the so called cluster title subdivisions. I will list the proposed changes and submit them for public comment following which I will seek to give them effect to the processes provided for in the Planning Act and as necessary supplement them with proposals for the legislative change. An important aspect of this change will be the preparation of the Development Control Scheme that will provide for the contributions towards community infrastructure to be made by those who subdivide. I'm hopeful and it is hopefully my intention that the changes that are forthcoming from this process will enable the creation of subdivisions that both fit within the parameters of the Norfolk Island Plan and provide the community with the greater freedom on habitation style than is presently available and I look forward to comments. Thank you

MR NOBBS Mr Speaker I've got no problem with this as long as it's done in accordance with the requirements and as it's a major change in the planning regime and I think the Minister spoke earlier about that in a statement. I was just wondering on this whether it will apply to all zones under the current plan or is it a proposal that will cover just high density zones. What's the zoning proposal

MRS JACK Mr Speaker, if I may. I think it would come out in the consultation process that I expect to have with the community. I personally wouldn't favour a whole island approach but that is just one view out of 1400. I think we need to take a lot of these matters into consideration and that is why it is my intention to have quite a lot of public education, consultation in order to move ahead with it

MR NOBBS Mr Speaker my concern is that we are going to end up with 1400 different plans but the situation is that I thought there would be something behind this saying that they would need to be hooked up, and for instance this is just an example because I really haven't thought about it in depth, but it would have to be hooked up to the current sewage scheme or words to that effect so that at least they are confined abit and that's the way I look at it and if we are really looking at a philosophy of creating an area I believe which will be sort of a village type arrangement and the other parts of the island are rural and semi rural arrangements. That's why and I think the community is going to need some sort of guidance as to what the planners are actually thinking, otherwise we are going to end up with all these different views. Thank you Mr Speaker

MRS JACK Mr Speaker, or just a staged approach is the response there and I can see Mr Nobbs' line of thought and putting as much to the already placed infrastructure rather than the infrastructure demands being made where none currently exist. A very sensible attitude and one that will be put out there with the proposals

SPEAKER Further debate Honourable Members? No further debate. The question is that the motion be agreed to

QUESTION PUT
AGREED

The Ayes have it. Debate is so adjourned Honourable Members

IMMIGRATION ACT 1980 – VARIATION OF QUOTA

MR BROWN Mr Speaker I move that for the purposes of paragraph 21(3)(a) of the Immigration Act 1980, this House resolves that the instrument executed by the executive member on 9 February 2005 be varied by increasing the number of general entry permits that may be granted in the period from 17 February 2005 to 16 February 2006 from 35 to 45

SPEAKER The question is that the motion be agreed

MR BROWN Mr Speaker the current quota is 35 for the year. In the current year quite a number of the current quota positions were used up by reissuing General Entry Permits to people whose permits had lapsed because for example some of them had changed jobs without making the appropriate arrangements to vary their immigration permits. I'm not in the position to advise the House of precisely the number of people that make up that category but it's in the region of ten if my recollection is correct. At present Mr Speaker I'm advised that the quote for the current year has been exhausted and yet when we look at the population numbers and Members will recall that we now receive a small chart each week giving us details of changes in numbers. The number of General Entry Permits has reduced over the course of the current year. In part that has happened because some people have moved from General Entry Permits to residency but we've also seen a substantial number of General Entry Permit holders leave the island. Mr Speaker we need to address the question of the size of the quota for the remainder of the current year. It's my recommendation that we increase the quota by ten so that we are able to process existing applications but more importantly, so that we move part of the way towards ensuring that our quota is set so as at the very least to enable the population to remain at its existing level and preferably to allow for such degree of growth as may be suggested by our population policy. At present that is 2% per annum that growth. The quota which we have set is not sufficient to actually cater for the number of people who have left the island so there's no growth in the quota that we've set. I hope that during the course of the next month Mr Speaker we will get to the stage of being able to finalise our discussions about the draft of a new population policy. I'm happy to adjourn this motion until our next meeting in the hope that we will have agreed on a new population policy by that time and it's possible that, that policy will say no, there's not room for an increase. It's my expectation though that it will say not only is there room for an increase, but there's an absolute need for an increase of some size. I'll be interested to hear the views of members and I propose them to move an adjournment

MRS JACK Mr Speaker, I would just like to ask the Minister if any people are actually waiting in line for these quotas to be lifted because I would hate to see people selling businesses or whatever reliant on that and having to wait another month

MR BROWN Mr Speaker I believe that the number effected at present is restricted to one application but I do not know whether there are other applications that have almost completed the consideration phase and which may be ready to come to me for a decision. At present I would need to decline any application on quota grounds and ask whether an applicant wishes to subsist. As I said I think that there's one at present but number could increase in the next month. I don't know that it would but it could

MRS JACK That being the case then I personally would not like to see this matter put off but to see this dealt with today

MR NOBBS Mr Speaker twice a year I get on my hobby horse and I'll be voting against the proposal because I believe that the whole immigration system needs a

good shake up and it's needs complete revision and until that happens I don't think we should do anything about immigration

MR SHERIDAN

Mr Speaker I fully agree with the Minister for Finance. I agree that the immigration area needs an overhaul and I'll say that because I am currently sitting on the Immigration /Board and I know the Minister for Immigration gave details on numbers prior and he may not have got our minutes from the last meeting etc so I might have a few numbers that he may not be aware of but in the last 35 quota that was made in March I believe it was, the number has been exhausted but of that 35 there has been only eight new residents to Norfolk Island, that is, from outside Norfolk Island. Of those other 27 all of those 27 people who gained their General Entry Permits were currently residing on Norfolk Island. Now as the Minister indicated General Entry Permit holders that changed jobs and didn't notify the Immigration /department and so they had to reapply and they get reissued a gep. There were Temporary Entry Permit holders coming onto the gep system which is the normal and also a number as previously Governments would administer they would give them a section 19 as in a relationship with Norfolk Island if you marry into the family or something the Government policy at this point in time is that they have to go under a section so under section 18 they applied for, they are currently deemed to have a section 19 so of those 35 as I said, 8 have introduced new people into Norfolk Island. I believe the idea behind the gep system is to encourage new people into Norfolk Island not existing people on the island to just change their General Entry Permit status which all we're doing there is shuttling numbers from tep, gep, residents, all the numbers are the same we are just putting them in different boxes. The numbers stay the same so we are not increasing our aim of increasing the population 2% you might say. As the other factor, how many outstanding General Entry Permits there are, I believe there are 8 currently awaiting approval. I know the committee recommended some the other night. They may not have got to the Minister's desk as this point in time but I believe the number is 8 but if we were to increase it by 10 that would leave 2 for the rest of the year. I think earlier in the year I voted against any General Entry Permits but if we are trying to increase the resident population of Norfolk Island I would suggest that maybe we leave it open ended and that would get away from allow these differentiations in the system you might say and then truly try and increase the true population of Norfolk Island not just changing hats, thank you

MR T BROWN

Mr Speaker I take interest in what Mr Sheridan has said and I look forward to seeing progression of the population policy but I just don't want Norfolk Island to become how Fiji has become where the original inhabitants, in our case, the Pitcairn Islanders become the minority group in the community. At the moment I would like to see the social services be sorted out before we go along with something where we have an open ended gep system because at the moment a lot of people who come over here on gep's typically people who aren't far off being social service beneficiaries, there's a lot of angst in the community with some people at the moment. How exactly they got the list of people on social services I'm not sure but the angst is still there. I would like those more of an emphasis being placed on Temporary Entry Permit holders who are typically the younger work force but in saying that I look forward to seeing the population policy progressed

MR BROWN

Mr Speaker Mr Sheridan has raised some interesting issues Mr Speaker. It may well be that a significant review of our thinking about immigration may be overdue. Over the years there have been many suggestions. Some have suggested that we do away with immigration controls and control the island through land controls. I've not been of that view but I respect the fact that it has been suggested and perhaps it's time to have another look at that. Certainly I accept what Mr Sheridan has said that very few actual new people have come to the island during the current year. Some General Entry Permits as I said earlier, were issued simply to replace permits which had lapsed. Others as Mr Sheridan quite correctly said were issued to enable people to move from Temporary Entry Permits to General Entry Permits. Later in the meeting I will be asking the House to consider a motion in relation to the length of time during which Temporary Entry Permits can be issued. But I think that experience has shown us that the bulk of General Entry Permits which have been issued over say the last five years have been to people in the category which Mr Sheridan has just mentioned moving from Temporary Entry Permits to General Entry Permits. Such people are

entitled to make the applications and while we do not differentiate between different types of General Entry Permits the successful application is a successful application. I will be proposing to Members in the near future that we look very carefully at introducing a number of retirement General Entry Permits each year. It may be that we should be splitting the remainder of the General Entry Permits into a number of components. One would be for people buying existing businesses. Another might be for people who may wish to commence a new business that we believe would be an important advantage for the island. In years gone by there were a number of examples of businesses that would have been welcomed but most of those ones if my recollection is correct, were filled in other ways. It would seem that it is time for us to end the confusion about the special relationship permits. They are clearly permits which can be given to people who have a special relationship with Norfolk Island. They are not spouse permits and if we were to administer section 18 in a fashion which was racially discriminatory we would be putting our administration system at risk. In my view there is a need for spouse permits. I sent a memorandum some months ago about the issue. I've not had a response to it as yet but I think that it is time for us to make a number of General Entry Permits available for spouses. A spouse permit in other places such as Australia has a requirement that a relationship can continue for a period. I think in Australia it may be two years. I'm suggesting that in Norfolk Island it might be appropriate for it to be a little longer but that would overcome any argument that a particular person might have had a string of spouses none of whom have lasted for very long and have moved to other parts of the island and there's been examples of that in the past. That problem could be overcome quite easily. Having heard what Mr Sheridan has told us about the various General Entry Permit applications which are near to finalisation I would tend to agree with Mrs Jack that it would be appropriate to try to deal with this matter today. With the granting of ten permits would satisfy the demand which Mr Sheridan which has indicated will face us during the course of the next few weeks but it would not at this stage be open ended. The Population Policy review when we complete it might well recommend that there no longer be numerical controls. I don't have a view about that one way or the other because after all, one only gets to the stage of being able to be granted a General Entry Permit after the whole of the application process has been dealt with. In some years backlogs have arisen and Legislative Assembly's have been able to resolve them by opening the floodgates and saying we'll never do this again but time and time again that kind of problem could well happen in the future if we don't think it through but the present motion relates only to the question of whether we are prepared to increase the quota by ten in respect of the period from now to the 16th February 2006 and I seek Members support for that in light of what has been said today

MRS JACK Mr Speaker, could I just ask the Minister if the proposal is for ten and eight seem to be taken up already would there be need perhaps to amend your motion to fifteen so that no further delays should perhaps prohibit movement of properties

MR BROWN Mr Speaker I'm in the House's hands there. If the house was prepared to set a number of 50 instead of 35 I would be delighted by that as that would facilitate the processing of immigration applications but if Members were of the view that they were prepared to go to 45 today and they want to finalise the Population Policy before going any further then that would just mean that the population would have to be finished in a hurry and I'm in the House's hands

MRS BOUDAN Thank you Mr Speaker. Just recognizing the need to deal with what's in the present system now I'm prepared to support the motion as it stands

MRS JACK Mr Speaker, could I move that amendment that it go from 45 to 50

SPEAKER We have an amendment that the figure of 45 be amended to 50

MR GARDNER Just a couple of things if I can Mr Speaker. One I think in years gone by there's been discussion about persons who may be at a disadvantage by not

being able to facilitate the sale of businesses for example. There are people out there particularly in this economic climate who for want of better words are in desperate straits. Some would argue its entirely their own fault. Others would argue it's just the circumstances that exist today that have brought that about and again just to throw into the thinking for people to ensure that we are not disadvantaging people by saying nay or yea or whatever the case may be but to have some consideration for that. Also as the legislation currently stands at the moment, basically anybody can apply for a General Entry Permit. It goes through an assessment system process and at the end of the day as the Minister has said, that's when the permit gets issued. Having had experience with it and I know Mr Brown has previously and yourself Mr Speaker there comes a time with every quota that's set that, that quota is exhausted and a number of people and in some years it's been fifteen, twenty and twenty five from my recollection have basically been told that you've met all of the requirements for long term settlement within Norfolk Island the only thing that's preventing you from being issued with a permit is that there is no quota position available. It immediately brings in whatever section it is and the Minister might be able to point me to the right section within the legislation that allows somebody to apply to subsist. Now I think Mr Sheridan has pointed out that the bulk of those applications for General Entry Permits are people who are living on Norfolk Island or those that have been granted are to people living on Norfolk Island. If they are to subsist, some of those people may have already got very close to or be on the brink of their extinguishment of their ability to be able to have a Temporary Entry Permit to continue to reside on Norfolk Island and in many instances those people may well have bought property and I guess be well settled into the island. We don't want to by denying quota's be disadvantaging those people in what we do but I think it's important to take those things into consideration when we are considering the quota arrangements. If for example not wanting to disadvantage people we were serious about that we would probably do away with the subsistence type arrangement and probably say to people well this is it, if you don't get it you go but we need to tell people that because with the arrangements that are in place that allow people to subsist I guess all you are saying to them is that you've met every requirement to live in Norfolk Island simply because there's no quota we can't give you your permit but we are giving you an ability to be able to remain on Norfolk Island and be part of the community. There's no simple answer to this. Mr Sheridan's quite right, Mr Tim Brown is quite right, Mr Nobbs is quite right, there are a whole host of matters that we need to get our heads round and there's been various attempts made in the past to do that but we haven't succeeded and I think Mr Tim Brown's quite right there. It's important that our population policy be finalised so that we can necessarily amend our legislation to give better effect to what is proposed by the policy that we've got in place and that may well include looking at the provisions that allow people to subsist. Looking at the provisions as the Minister says about creating spouse permits because at the end of the day you are not going to say no to somebody who is married to somebody but you just need a different facility or provision to enable them to come and settle on Norfolk Island. It's a very complicated thing but I don't think its as easy to say no to it because that in itself brings complications. I don't know what the right number is Mr Speaker but I don't believe that the setting of quotas has caused us difficulties in the operations of things in Norfolk Island to date but I certainly do support the need to probably explore in conjunction with the population policy, better mechanisms for the control of the permanent population on Norfolk Island

MR BROWN

Mr Speaker the Chief Minister has raised an important issue. The immigration Committee is doing a very good job in processing applications quickly. As soon as an application is ready to go to the Committee it rarely waits more than two weeks in order to be dealt with. The Committee is extremely prompt in attending to the preparation of minutes and the minutes of its meetings together with the relevant files come to me quite quickly after the Committee has met and dealt with it but it can take some time to get to the stage of an application being ready to go to the Committee and that may well be the case with a number of people moving form Temporary Entry Permits and one of the difficulties that arises is that the Chief Minister outlined. People could find either that the policy says times up and they shouldn't have any more Temporary Entry Permits, that there is a conflict between on the one hand saying I want to stay permanently in Norfolk Island so please give me a General Entry Permit and on the other hand saying well my Temporary Entry Permits expired, please give me another Temporary Entry Permit short term while I wait to stay long term. We don't

give that benefit to people who are buying a business from offshore but there have regularly been occasions where Temporary Entry Permit holders have wished to remain on the island after the expiration of their Temporary Entry Permits while they await the granting of General Entry Permits and on odd occasions that has involved waiting through a subsisting period so it's an issue that I welcome discussing with Members but as I said, I'm in the House's hands as to the number. I would be quite happy with 50 if the House is only prepared to go 45 well I'll be happy with that. Thank you

MR D BUFFETT

Mr Deputy Speaker, I just would like to make a brief contribution to this debate. Really historically immigration is one of the most contentious things that we've had to deal with forever so to speak and I've been wondering when immigration was going to come forward again because in more recent times significantly debating the matter of difficulty in our tourist industry, difficulty now in our financial arrangements and a number of other things which of course are really important, so it would only be really a matter of time before immigration would come again and this is part of it today. The Minister has correctly pointed out to us that we do have a study that is to be examined and brought forward with some detail and that is important to know how we would want to travel at this stage because without a doubt immigration will be handled differently from time to time depending on the environment over a long period of time and it might require adjustment and it's been foreshadowed that we do need adjustment but we need to see all of the factors that need to be taken into account in the study that has been referred to. That's not available to us today but we are asked to determine or make adjustment in the quota. I'm agreeable for an increase in the quota so that it might ensure that there is not a hiccup in the processes that need to be worked through at this time especially, in this fairly vulnerable financial time when a) people may need to exit but b) equally, we need to have replacement arrangements given the financial arrangements at present. If there are people who are willing to make investments in particular areas and it requires some accompanying immigration considerations then I think that we should not inhibit that in this difficult time. The proposal is to go to 45 and from what I can understand in the debate to date in the information that's been brought forward that there is a likelihood that, that would cover those things that are foreseen over the next month or couple of months. It is equally foreshadowed that during that period of time we might have this report that we might make an evaluation as to how we would want to travel. Given that situation I would endorse the proposal originally made in Mr Brown's motion, that is to increase the quota by ten. I would not endorse a larger increase at this time. That doesn't mean that I would never endorse such a motion. It would mean that I would like to see the report before that decision is made in terms of the higher future. It may well turn out that given that there is room to do that but it may turn out to be the opposite also and we don't know that at this moment. So in terms of the proposal I would support Mr Brown's motion. I would not support a higher figure at this movement but I would be willing to evaluate that higher figure when we have the additional information. Thank you

MR NOBBS

my contribution is consistent. It's been consistent for eight years and this comes up usually twice a year and it's usually around this time at the end of the year and it'll be on again in February I should imagine when the Minister will bring the next years quota to the table so we have a little time to get our act together before February in relation to the population policy. I just wanted to make this comment, the Speaker made mention a minute ago about people wishing to exit the place. Well I believe they should be allowed to exit and there should be a defend system altogether to a gep system and I've been through that and I've had my behind tanned here in this place for suggesting such a thing but I do believe there is a need for a different permit system in place and they cover other things and I was a bit pleased to hear that an issue was actually mentioned by Minister for Community Services in one of his early arrangements and I think I believe that we need to look well beyond the actual Population Policy but to a new or varied system to what we have at the present time. Some of it is reasonable but a lot of it is not and I believe it needs to be clearly spelled out and I believe a series of permits is far more advantageous to the coupled that we have at the present time. Thank you

MR D BUFFETT Mr Deputy Speaker, it may well be that we do require some changes in the system as Mr Nobbs has mentioned but the reality is that we need to make our judgement in terms of the proposal that is before us in terms of the laws that exist today and so if we are to get on with what we've got we need to make the judgement in line with what's in front of us and not what we would like to have in front of us maybe and that indeed is part of the difficulty which is why I have said that I am comfortable in terms of the original proposal but not in terms of an increase until we see the others and can evaluate the others in terms of the report

DEPUTY SPEAKER Thank you. Is there further debate at this time? Then I put the question to you Honourable Members, that the amendment be agreed to

QUESTION PUT

Would the Clerk please call the House

MR BUFFETT	NO
MR GARDNER	AYE
MR SHERIDAN	NO
MR NOBBS	NO
MR CHRISTIAN	AYE
MRS JACK	AYE
MR TIM BROWN	NO
MRS BOUDAN	NO
MR BROWN	AYE

The amendment is lost four to five

I put the question that the original motion be agreed to

QUESTION PUT AGREED

MR NOBBS	NO
----------	----

Mr Nobbs would you like the House called. No. Then the ayes have it, the motion is agreed

IMMIGRATION ACT 1980 – AMENDMENT TO POLICY AND GUIDELINES

MR BROWN Mr Speaker I move that clause 4.2 of the Immigration Policy and Guidelines be amended as follows: a Temporary Entry Permit or an extension of an existing Temporary Entry Permit will not be granted where approval would result in the applicant holding a Temporary Entry Permit for more than eight years during any continuous period of ten years

SPEAKER The question is that, that motion be agreed to

MR BROWN Mr Speaker the motion simply proposes that the previous situation where a Temporary Entry Permit could be held for a maximum of five years out of any continuous period of six be amended to allow a Temporary Entry Permit to be held for up to eight years out of any continuous period of ten. At present we are forcing quite a lot of people to apply for General Entry Permit's at the end of their five years in circumstances where they might not want to stay more than a few more years. It is my view that if someone wants to stay for eight years out of ten we should allow them to do that but there need to be conditions. Perhaps this would only apply where someone was continuing in the one type of employment and not apply to someone who changed jobs each four or five months through their period. There may well be other considerations that Members feel would need to be brought in to the motion before it would be appropriate to pass it. I have no objection to the matter being

adjourned once its been debated today so that any general views of members can be incorporated in an amendment to the motion. One important factor that would need to be tightly stated is that it would not be intended that eight years of residence on a Temporary Entry Permit enables someone to suggest that they are now a de facto resident of Norfolk Island and therefore no matter what the circumstances may be should be provided with a General Entry Permit and later residency. This motion is very much based on the period of residence of a Temporary Entry Permit holding no sway in terms of longer stay. That's all I wanted to say at the moment Mr Speaker

MRS JACK Mr Speaker, in the previous motion given by the Minister for Community Services I brought into account people already in process of their applications being looked at and I was just wondering does this motion of the Minister's involve anybody currently, would there need to be made any provision for transitional type arrangement. Is anyone currently in the process where that sort of aspect would need to be identified

MR BROWN Mr Speaker I can say to Members that the motion does not relate to the situation of any person of whom I am aware nor am I aware of any person who has been here for five years and is about to leave the island because they can't stay longer on a Temporary Entry Permit. That's not to say that no such person exists but I'm not aware of that situation. I certainly would like to deal with this at least at our next meeting. I think it is important for businesses for example because there are some people on the island who happily stay for their five years and would happily stay for eight but don't want to stay long term and might fill roles which are difficult to fill and it may be that an ability to extend in that position, subject to no local person being trained up or wanting to take the position it may be that eight years would be seen as a sufficiently long period to justify uprooting from other places and coming to Norfolk Island for a period so it may simplify the task of recruiting staff

MRS JACK Mr Speaker, no I appreciate the Minister's desire to what this to come to fruition and I certainly would like it to stay on the paper for one month. I appreciate what the Minister has said with one aspect and that is providing the person doesn't chop and change their jobs, I would like it to go to people who have shown a loyalty to a position but I would just like to think about it a bit longer thanks and so would appreciate it being held over and being made an order of the day

MR T BROWN Mr Speaker so long as it was clearly stated that by staying here eight years on a Temporary Entry Permit you were no way entitled to residency automatically I would have no problem supporting this

MR SHERIDAN Mr Speaker I won't be supporting this at all in this instance because I believe that the longer temporary people stay on the island the harder it is to remove them when the time comes and their permit is up. I know the Minister has indicated that he has trouble with people coming down to their tenure of five years. We may be forcing them to leave the island. I disagree there completely because I know for a fact that there have been people who have been on Temporary Entry Permits who are in their sixth year and that came about by the recommendation from the Minister and the insinuation there was that the Act overrides the Policy and Guidelines which I believe it does and in the act it says in 16(2) the Executive Member may on application by the permit holder from time to time extend by a period not exceeding one year on each occasion during which the permit remains in force so I believe the Minister is reading there that they can continually renew a Temporary Entry Permit for as long as he wants to. The guidelines, the Policy and Guidelines states five out of six years but when that came to the fore and I'm talking through my immigration Committee now you might say, and the issue was raised that this person had applied for a General Entry Permit and it was not recommended by the Committee and he was ultimately refused, he then was further advised to re apply for a Temporary Entry Permit. Now if we are going to go down that road what is the issue of extending it to eight out of ten years. I can't see any reason at all to change the existing rules from how they are but to make sure that the act and the Policy and Guidelines may be a little bit better

MR CHRISTIAN Thank you Mr Speaker, I have a different view to Mr Sheridan's and I intend to support this. It is quite clear that in years gone by the policies that have been in place be it four year five years six years or two years has in a number of circumstances forced people who do not reside in Norfolk Island forever to apply for General Entry Permits in order to stay here for that little bit longer. History also tells us that a lot of Temporary Entry Permit holders do not go on to become long term residents and in fact depart the island so I in fact see this mechanism for accommodating those people who wish to remain for a period of time but not permanently and freeze up the General Entry Permit quota system for what it's meant to be used for that is, the first stage of people who intend to make Norfolk Island their home forever so on that basis I'll support the proposed amendment to the policy

MR GARDNER Mr Speaker it's interesting how the environments change markedly over 25 years. Over 25 years ago a tep brought with it the requirement to have to leave the island every twelve months. Go away. Come back. Reapply for another Temporary Entry Permit. The legislation amendments in 1984 actually put into legislation the mechanism which we've got now which are those provisions that I think Mr Sheridan referred to before under section 16 which basically recognises a Temporary Entry Permit only to be in force for one year and it is still the intent that it is only a permit for one year. You must renew it every year. It's not saying that you can get a Temporary Entry Permit for five years or eight years or whatever the case may be. It is a year by year thing. That's all it is. Now that raises the argument as to whether in fact there needs to be any words in the policy at all in relation to it because if it is only recognised under the legislation as a year by year arrangement then my interpretation and there's probably other interpretations out there no doubt that a year by year arrangement doesn't accrue any rights because that is exactly what it is. A temporary arrangement. Now that temporary arrangement can be in existence year by year for the next 30 years if that's how it needs to be however, you are going to run into some problems. I can see you shaking your head Mr Speaker. Run into some problems there with probably some international agreements and human rights type arrangements and I recognise that but maybe we are playing a little on the edge by adapting a policy that might potentially put us in breach of some international type arrangement and covenants on human rights, civil rights, political rights and those sorts of issues but anyway, it was really just to point out the fact that a Temporary Entry Permit is not something that you get for three years or five years or eight years. It's a permit that you get year by year. Yes you can have resided on Norfolk Island on a Temporary Entry Permit for three years or five years but in actual fact, it is only valid for twelve months.

MR BROWN Mr Speaker the Chief Minister has raised some quite important issues and it has caused me to feel that I should make a comment about the renewal of a Temporary Entry Permit. Members will be aware that the renewal of a Temporary Entry Permit is no different to the initial application for one. It is exactly the same form, exactly the same advertisement needs to go into the local paper on two occasions and unfortunately some of our employers have not been as co-operative as they could be and have placed advertisements for German speaking housekeepers or have said tep renewal in the advertisement. Now my view is that someone advertising for a German speaking housekeeper should be told to place the advertisement again because it is simply not satisfactory unless there is a genuine need for that person to speak whatever that language may be. Similarly it's inappropriate for employers to seek to indicate that they don't wish to be bored by people applying for the position if that's what is intended by the words this is a Temporary Entry Permit renewal then perhaps we should reject those advertisements also. I have no difficulty with the words which might cost a few more dollars to put in the paper but which might say this is a tep renewal but residents and General Entry Permit holders should feel free to apply because that's the situation. They are entitled to, their application must be dealt with and anyone who is in the situation where they do hold residency or a General Entry Permit and sees a job which might say this is a Temporary Entry Permit renewal but nevertheless want to apply for it are certainly entitled to do so

MR NOBBS Mr Speaker I intend I think to support this but I would like to see it left on the table for a while because I remain completely confused with the whole immigration arrangements and the quota and the whole lot after seven or eight years, I'm still

completely confused. The Policy and Guidelines are held up one minute but no we can do it by the act which is something else and on it goes so there is a need for a complete revision of the whole system but I don't personally see any danger in this sort of arrangement and so I will support it like I did the extension to five years but I wonder why we are doing it if we can do it some other way

MR BROWN

Mr Speaker, I move the adjournment

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 matter is so adjourned

IMMIGRATION ACT 1980 – POSTING OF NOTICES

SPEAKER

prospective motion

Mr Brown you were seeking leave in terms of a

MR BROWN

appears on the programme in my name

Mr Speaker I seek leave to move the motion which

SPEAKER

Brown

Thank you. Is leave granted? Leave is granted. Mr

MR BROWN

Mr Speaker I move that this House requests the Minister for Community Services to take such action as may be required pursuant to section 35(4) of the Immigration Act 1980 in order to prescribe the following method of service of notices for the purposes of section 35(2) of the Immigration Act 1980 a) for the printing of a notice in four consecutive editions of the Norfolk Island Government Gazette and b) if the Executive Member is aware that the person resides in Australia or New Zealand the publication of a notice in one edition of a national newspaper circulating in that country and c) if the Executive Member is aware of the address of the person the posting of the notice by prepaid mail. In the case of advertisements, service shall be deemed to occur on the date of publication of such notices. In the case of service by post service shall be deemed to have occurred fourteen after the date of posting whether or not the postal article is received

SPEAKER

Members, that, that motion be agreed to

Thank you Mr Brown. The question is Honourable

MR BROWN

Mr Speaker Honourable Members, will be aware that for many years the Immigration Act has contained a provision to enable residency to be cancelled when someone has left the island with no real intention of ever returning. Basically if the person has been aware for three years and without returning the executive member has the ability to invite the person to clarify whether or not he does intend to return permanently and in the absence of that clarification that person's residency is able to be cancelled. Residency in that context is not the residency of a person born here, we are talking of a person who received a grant of residency. The difficulty over the years has been that there hasn't been a prescribed way to give the notice and unless the executive Member was aware of the current address of the person it was not possible to give the notice. Over the years I'm not sure whether the numbers are increasing or decreasing at present but over the years there have been many Members who have expressed concern about the fact that there may be thousands of people who could return to the island on no notice in a couple of weeks time for a couple of months or a couple of years and those Members have been of the view that we should prune the list of residents in some fashion so that we are able to better plan for the numbers that may be on the island at any time. I think that almost without fail those who have an interest in the island will

visit the island on holiday at some stage during the three year period and this would not apply to them. Similarly those who have an intention of returning one day would be in touch with someone who would see the advertisement even if their current address was not known and would make it clear that they have an intention of returning. Those who would be the subject of the cancellations would I expect exclusively be people of perhaps in a faster way unknown to us or have absolutely no intention of returning to Norfolk Island on any permanent type of basis. I've given some thought to the question of how would someone show that they were keen to return and if for example there was a special category for the healthcare fund where a person could contribute a couple of hundred dollars per year with the intention of being an offshore Member who receive no benefits other than being a Member for the time when they come back, perhaps that's a form of tax that people could pay to show that they are bona fide about one day wanting to return. There may be some other form of tax that I'm sure the Minister for Finance would not need more than five or six minutes to come up with a range of possible way that someone could show a long term commitment to the island. All that this motion seeks to do is in effect to authorize me to have prescribed these methods for giving notice to a person holding residency asking that person to advise whether or not they do intend to return on a permanent basis

MRS JACK

Mr Speaker, I'm just wondering if the Minister sees or would foreshadow any reason for an exemption. For example, people posted to out of the way placed and unable to make a pilgrimage back one year in three. Becoming quite ill or family commitments elsewhere that determine that they just cannot make it home and I admit that it would be quite a rare circumstance, but the ability to make application to the Minister for an exemption

MR BROWN

Mr Speaker that is implied in what I've already said and I apologise if I didn't make that clear. The intention is not to have a sudden death situation in three years. It is to invite someone to advise whether or not they do intend to return eventually and I think that at that stage the Minister for Finance will have a role in working out how they can help contribute to the island during the time that they are away, thank you

MR T BROWN

Mr Speaker I was just wondering if the Minister could advise on the number of invitations that he would be sending out at the moment if this was approved

MR BROWN

Mr Speaker I do not have a precise number for two reasons firstly the number is believed to exceed 1000 and it would be necessary to go back through really, the whole of the immigration files of people who have residency since 1980 at least. So that's the first reason's the second reason is that there are potentially many people whose names we might not even know. The records according to the advise I've received when I've asked questions about it are such that at least prior to 1980 there may not be great detail so this would not be an all embracing solution but if the number turned out to be 1000 I would propose to send out 1000 letters if I knew the addresses of the people or to send letters to the addresses of which I was aware and to print the notices which are described in the motion in order to provide advise to the remaining people

MR GARDNER

Mr Speaker just a brief reading of the Act as it currently stands, I just wonder whether the Minister I might have a view on some of the other provisions of the act relating to cessation of residency and permits and the like. Now residency is not a permit situation but the legislation says in one of the section there, words to the effect that if you are going to revoke a permit, change a permit, you must give reasons for it and that then clicks into place section 84 which is the appeal mechanism to the Minister and the residency situation, not being a permit doesn't come under that provision that I was referring to however, when you look at section 84 of the legislation and the review of the decision by the minister, in this case the Minister referred to is the Minister for Territories in three Commonwealth Government who handles the appeals process, it says there that within 14 days of being handed a decision or posted a decision you've got time to appeal. Now if these notices are going to appear in a paper and we can't find people and I guess its deemed that

their residency is cancelled. Possibly in my view, it possibly leaves open every single one of those decisions open to appeal unless the person who is the subject of the cessation of residency has actually been handed the reasons for the decision in each case by the Minister and I don't know how we are going to in managing that side of things other than those who you know the address of and it's been postmarked and the fourteen days expires. We just might need to have a look at that and the Minister might have a response in relation to that but I just see that there's some potential conflict in what we are looking to prescribe and the operation of the Act elsewhere and I think we probably need to make sure that the two work hand in hand so to speak. I don't know whether there's a simple answer but as I said perhaps the Minister might be able to provide some insight into that

MR BROWN Mr Speaker certainly section 84 retains provision for requests for review of a decision of the executive member to be forwarded to the Minister who is responsible for Territories in the Australian Government. That situation doesn't necessarily apply. We haven't deemed cancellation of a permit because a deemed cancellation doesn't involve a decision of the executive member but in this case I think the Chief Minister is correct, there would at first glance be a decision being made by the executive Member. One would think it unlikely that a person would make a representation and the executive member saying well I do intend to come back in so many years time and have that followed by the executive member saying well no I'm, going to cancel your residency. I would think it would be unlikely to occur but that does not mean that it doesn't deserve careful thought because the major problem that the Chief Minister had in fact raised is that if someone comes along and says well I've only just become aware of your decision and I wish to seek to have it reviewed. There would be various ways of handling that. One of which would be to take a view that if someone gave you a statutory declaration to say that they had only become aware of it, it would be appropriate that they would be able to seek review. I doubt that it would happen on many occasions but I fully agree with the Chief Minister it's an aspect that should be looked at in the context of this

MR NOBBS Mr Speaker it's an area that needs to be cleaned up, this residency arrangement. We've heard over time that there could be up to 8000 actual residents of the island which are not residing on the island. I don't think anybody really knows the correct figure and I think it's essential that we do move down this road but I think there's a need in the case of illness and that sort of thing that there is a need for some sort of leniency I guess as regards that and particularly with older people. As the Minister says, this particular process doesn't apply to persons born on the island and section 28 doesn't apply apparently so that should be made very clear in any discussion in relation to this and apart from that I would support the proposal Mr Speaker at this stage]

MR BROWN Mr Speaker could I respond to something that the Minister for Finance just said and that is that there would need to be consideration of people who are away for reasons of illness as an example. That's certainly the case. There would similarly need to be consideration for persons who were away let's say a person was a range in Kakaduk National park and if that person said look as soon as I retire I want to come back to the island and although I can't come back from the Northern Territory every year or even every three years at present I do try to come back at least every five. Well an executive member would deserve to have a decision set aside if he decided to cancel residency in those circumstances. That's certainly not what's in the background of the motion, thank you

SPEAKER Further debate. Did you foreshadow earlier Mr Brown that you wanted to

MR BROWN Mr Speaker with that one it requires me to arrange for the system to be prescribed. I've taken note of the comments about section 84 in terms of appeals. I'll certainly do something about that at the same time but I would seek to have the motion itself dealt with today if Members are prepared to do so

SPEAKER Any final debate? The question agreed is that this motion be agreed to Honourable Members and I put that question

QUESTION PUT
AGREED

Thank you. That motion is agreed to

DE FACTO RELATIONSHIPS BILL 2005

MR GARDNER Mr Speaker I present the De Facto Relationships Bill 2005 and move that the Bill be agreed to in principle

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

MR GARDNER Mr Speaker in tabling the explanatory memorandum I'll make reference to it. Mr Speaker this Bill proposes to make provision for determining the rights and obligations of persons who cohabit in marriage-like relationships and who, by reason of their relationship, may be seen to incur mutual obligations. Under this Bill, two adults who are not married to each other can make a cohabitation agreement, or a separation agreement. A cohabitation agreement primarily provides for financial matters between partners and can be made in contemplation of entering into a de facto relationship, or during the relationship. A separation agreement is very similar but is made in contemplation of terminating a de facto relationship, or after it has ended. A de facto partner may apply to the Supreme Court for an order adjusting the property interests of the partners or for the granting of maintenance. In cases where such an application is made and the court is satisfied that a cohabitation agreement or separation agreement exists, the agreement is in writing, and the agreement is signed by the other de facto partner the court must not make an order that is inconsistent with the terms of the agreement except in certain circumstances for example where enforcement of the agreement would lead to serious injustice between the parties. There are some advantages for couples able to agree on how financial matters will be dealt with in the event of separation. The agreement can be tailored to the individual needs of the partners; making an agreement is quicker and cheaper than going to court; by helping couples avoid the adversarial court process, agreements may assist couples to avoid escalating levels of confrontation and maintain a civil relationship. A person who is, or has been, in a de facto relationship can apply to the Supreme Court to make an order adjusting the property interests of either or both of the partners or for the granting of maintenance, or both. The court is able to make an order for maintenance if the partners have been, or were, in a de facto relationship for not less than two years, or if there is a child of the partners, or the partner applying for the order has made substantial contributions either financial or non-financial over the course of the relationship, or has the care and control of a child of the other partner, and the failure to make an order would result in serious injustice to that partner. In addition, a court may not make an order for maintenance unless one or both of the partners lived in Norfolk Island on the day on which the application was made, and both partners lived together in Norfolk Island for not less than one third of the period of their de facto relationship, or the partner applying for the order has made substantial contributions while in Norfolk Island. An application to the court for an order for maintenance has to be made within two years after the relationship's end but the court may allow a person extra time in which to apply for an order in certain circumstances. The court may make a maintenance order if it is satisfied that the partner applying for maintenance has not married or entered into another de facto relationship and is unable to support himself or herself adequately because he or she has the care and control of a child of the de facto partners, or a child of the other partner, who has not attained the age of 18 years, or his or her earning capacity has been adversely affected by the circumstances of the relationship, and in the opinion of the court an order for maintenance would increase his or her earning capacity by enabling him or her to undertake a course of training or education, and, having regard to all the circumstances of the case, it is reasonable to make the order. In determining whether, and how, maintenance should be paid the court must have regard to the income, property and financial resources of each partner, the financial needs and obligations of each partner, the capacity of each partner for employment, the eligibility of

either party for a pension, allowance or benefit payable by a State or Territory of Australia or by another country, and the rate of any such pension, allowance or benefit, the eligibility of the party against whom the order is sought for a pension, allowance or benefit payable by the Australian or Norfolk Island Governments, and the rate of any such pension, allowance or benefit, the responsibilities of either partner to support any other person, any adjustment of property interests ordered by the court, and any child support payments made to either partner. In making a maintenance order, a court will disregard any entitlement of the party applying for maintenance to an income-tested pension or benefit payable by the Australian or Norfolk Island Government. A maintenance order will cease to have effect if either partner dies, or on the marriage of the person receiving maintenance. Mr Speaker the legislation basically brings Norfolk Island as a jurisdiction into line with similar provisions that exist in most other first world countries these days in that it recognises de facto type relationships in this day and age as something akin to a marriage and it is apposite for such legislation to be in existence in this jurisdiction. In relation to some of the preliminary discussion that I've had with the legal profession on the island to date and the purpose of bringing this matter forward today is to encourage further discussion and input as far as the consultation in relation to the bill is concerned, I have had representations from a couple of practicing solicitors on the island in relation to some of the provisions, they were initial comments and most of those have been picked up by a number to them more in line with I guess typographical type errors, and in some of the definition clauses but I would encourage persons within the community and certainly in the legal profession who unfortunately or otherwise usually end up dealing with disputes between partners and the like whether in de facto relationships subject to the successful passage of this bill or in marriage type relationships or other types of relationships. Usually the people who deal with those disputes their input will be valued as this bill is proposed to sit on the table for some time but I commend the bill to the house

MR BROWN

Mr Speaker this bill is likely to have a significant beneficial financial impact on the island in that it may well be thought that most of the vacant houses and flats could quickly be filled by those who do not wish to come to the terms of the legislation and if that was the case perhaps it is time. There have been motions passed in earlier times, seeing to have this bill drafted and introduced. I commend the Chief Minister for tackling the task. It will sit on the table for a month. There are some parts of it that we might scratch our heads about when we read them. De facto partner means various things, but one of them is a person who is about to enter into a de facto relationship. I'm not quite sure of the circumstances in which that could arise Mr Speaker but the bill doesn't deal with maintenance for children. Maintenance for children is dealt with by the Family Law Act and is already covered but this does make provision for maintenance for a spouse in certain limited circumstances. More importantly it makes provision for adjustment of property interests and there have been too many people over the years who have been shown the door and have been provided with very little compensation for whatever number of years they may have contributed to that household. I would be interested to look at section 46 which is the section that deals with the question of just what de facto relationships does this deal with and the bill does not apply to a defacto relationship which has ended before the commencement of the Act so if a relationship had ended six months ago this bill will not be seeking to have retrospective effect and in my view that is proper. People should know the law that applies to them. We should not come along and change that law six months later and make it retrospective. One of my concerns have been that question. Whether there was restrospectivity. The only degree of restrospectivity in the bill appears to be that it will include people who are de facto partners now and that would seem to be appropriate. Mr Speaker I realise the bill is to sit on the table for a month. There is nothing that I wish to add at this state

MRS JACK

Mr Speaker, the previous Minister stated that maintenance for children comes under the Family Law Act and there's trouble with maintenance being provided through that Act. I'm aware of a couple of cases where partners are continually taking ex partners before the court to try and get them to provide maintenance. Now I'm just wondering what sort of issues does this bill propose to have that will enforce maintenance for the partner because the other one seems to me from what I hear to be pretty ineffectual

MR BROWN Mr Speaker there are no shortage of no hopers in this world who feel that a lady only loves them once she's had a few children. And there are no shortage of those no hopers that when it comes to time to start paying maintenance for them although at one stage they may have said they earned a fortune all of a sudden they are either telling people that they don't have a job or their business travels very poorly. In other places many of those people go onto social welfare. Perhaps have second jobs that they don't disclose, taking black money as it were but it is a regular problem not only in Norfolk Island but also in Australia. In Australia to try to overcome that they introduced the Child Support Agency and frankly it would seem that the Child Support Agency only has success in dealing with people who would have paid anyway and in dealing with people who claim they own no income get themselves on a pension and simply refuse to pay it is very difficult, even with all of those resources but I fully agree with the Minister for the Environment. It is an appropriate time to do something about that issue. One action that we could take would be to make it clear in our legislation that in terms of immigration failure to pay maintenance which has been ordered by a court shall be deemed to be an issue in relation to character. Maybe that's one thing that we can do. Just how we get around the remainder of the problems I don't know because the other difficulty that many have is that the ex partner is prepared to spend inordinate amounts of time in the court system trying to justify his failure to pay and at the end of the day frequently the courts are no wiser than when the action began. But I would like to see the bill proceed in its present form and improvements such as that suggested by the Minister dealt with at a later but early date. Thank 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 Chief Minister. Then I put the question to you Honourable Members

QUESTION PUT
AGREED

The ayes have it thank you, that matter is so adjourned

LAND TITLES (AMENDMENT) BILL 2005

MRS JACK Mr Speaker I present the Land Titles (Amendment) Bill 2005 and move that the Bill be agreed to in principle

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

MRS JACK Mr Speaker I'll read the explanatory memorandum into hansard. This Bill is intended to close some avenues available for the evasion or avoidance of fees under the Land Administration Fees Act 1996 and to correct an anomaly arising from the Companies Act 1986. The first change to the principal Act is to amend definitions by including reference to a company registered as a foreign corporation and reference to related corporations as shareholders in a company. The Bill proposes to make sure that foreign corporations that own land in Norfolk Island are registered under the Companies Act. At present that Act is ambiguous concerning the ability of foreign corporations to own land and some do. The Bill therefore requires a foreign corporation to be registered under the Companies Act as a foreign corporation. One major benefit of this is to ensure that there is a way of providing notices to such a corporation without having the deal through a registered office in a foreign country. However the Bill also recognises that some corporations that are listed on a stock exchange may be registered and of course their shareholdings tend to be extremely large and fluctuate hour by hour and so are exempt. The Bill also allows the executive member to make exemptions by disallowable instrument and exempts the recording in the land register of shareholders in a company with more than 20 shareholders so long as no shareholder holds more than 15% of the company (the condition seeks to make it difficult for persons splitting up their holdings to avoid registration). The Bill is also intended to ensure that when a company owns an interest in land a change in shareholding of a company that is the owner of shares in

another company that is the actual owner of the land must be notified. Under the present legislation it is only the change in ownership of the company that owns land that must be notified and this requirement along with the fees on the change of ownership can be avoided by having one or more additional companies interposed. The Bill also covers the situation where a change in a beneficial interest can be made and notification of change avoided. This requires a person to inform the Registrar of beneficial interests and covers the situation of a person selling under a power of attorney to provide a statement of how the proceeds of the sale are to be applied. The intention of this is to prevent, as far as practicable, the sale of land that is not disclosed in order to avoid payment of a fee and allows the purchaser to be in a position to sell under the guise of holding a power of attorney from the registered proprietor. Finally, the Bill requires a person seeking to effect a transfer of land to produce a certified contract of sale or if there is none a document setting out the material conditions of the sale and for it to be an offence for a person to provide a false certificate. The Bill provides for penalties for acts done to avoid the application of the legislation. Mr Speaker this Bill is really brought about by concerns raised over one particular issue of a company owned outside the boundaries of Norfolk Island and having trouble trying to serve papers on that company. It is trying to ensure that this can't continue and give assistance to Members of the Administration and also surety that all benefits entitled by absentee landowners can be maintained and delivered to the Administration and I look forward to comments that may come from other Members thank you

MR BROWN Mr Speaker I'm not sure whether we are using a sledge hammer where a sledge hammer might not actually be required. It is a simple matter to amend our Companies legislation if that is what we wish to do so that the ownership of a block of land will be deemed to be trading and therefore a foreign company which owns land will need to register as a foreign company that's not difficult to do. It would be unusual because normally as I understand it the ownership of a block of land is not deemed to be trading and therefore an overseas company can own a block of land without being registered as a foreign company. But if we change the Companies Act so that it is deemed to be an action which requires registration as foreign company then we have the power to do that. If that one change would achieve what the minister is seeking to achieve I would be more than happy to support it. I'm left at this stage a little confused on the remainder of the bill. But it's not intended that the bill be dealt with to finality today so I'll have a month to sort that out

MRS JACK 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 Mrs Jack. Then I put the question to you Honourable Members

QUESTION PUT
AGREED

The ayes have it thank you, that matter is so adjourned

MEDIATION BILL 2005

MR GARDNER Mr Speaker I present the Mediation Bill 2005 and move that the Bill be agreed to in principle

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

MR GARDNER Mr Speaker I table the explanatory memorandum to the Mediation Bill 2005. The purpose of this Bill is to provide the Supreme Court and the Federal Court with the ability to refer disputes to mediation by persons on Norfolk Island who are qualified mediators. Mediation of disputes has over the past 20 years gained wide acceptance as a tool used by courts to resolve issue without full resort to courts and the high cost that often involves, to reduce the extent of depression, frustration, anger and relationship break-down that often results from litigation and generally reduce the cost of the legal system to the

community and provide better service by the court system. The Federal Court of Australia web page describes mediation (also called alternative dispute resolution (ADR)) as a way of settling cases without having a hearing in court. It is supervised by the Court. It is cheaper and less formal than having a case heard by a Judge. After proceedings are commenced a Judge may order that the people involved in the case meet in a mediation. If the case does not settle at the mediation it can be heard by a Judge later. The parties will then have a better idea of the issues and facts of the case. At the mediation there is a neutral person, called the mediator, who helps the parties settle their differences through negotiation. The mediation is confidential and all discussions are 'without prejudice'. This means that anything said during the mediation cannot be used against a party if eventually the case is heard by a Judge. There are a number of organizations that promote alternative dispute resolution and train people to be mediators such as LEADR and Institute of Arbitrators and Mediators Australia. These organizations are well respected and their mediators who are graded as accredited or advanced are accepted by the courts as persons to whom mediation is referred. This Bill establishes a simple arrangement for agencies that train and accredit mediators to be approved and for persons who are already accredited mediators by an approved agency to apply for registration in Norfolk Island. The Registrar of the Supreme Court maintains the register of mediators. The Bill provides for registration, the period of registration, renewal and removal, the admissibility of evidence from a mediation and secrecy. Mediators in carrying out their duties are protected from defamation action and otherwise have the same protection and immunity as judges. Mr Speaker the Mediation Bill had its genesis in a recommendation from the Chief Justice of the Supreme Court as a result of a case recently heard by him and I can't refer you to the exact detail of that case but it was thought appropriate that Norfolk Island I guess come up to speed with the various tools that different courts and other jurisdictions are equipped with to resolve disputes between persons and the mediation bill is a result of that. A simple approach in ensuring that mediation can be a useful tool. I think it's probably fair to say that there are currently mechanisms before the supreme Court in the rules of the Supreme court to check that before a matter is brought before the court that some forms of mediation or alternative dispute resolution have been considered before a matter is heard before the court. I don't think that that exists to the same degree or if at all with the say, the Court of Petty Sessions and that has been a suggestion in the consultation process in the development of this bill from solicitors on the island that maybe there is a need to look at, in our reviewing and rewriting of our Court of Petty Sessions legislation which is under way at the moment and also in our Supreme Court Act and the rules there to ensure that provisions such as mediation become an integral part of the toolkit for use by the courts before matters go to a full hearing and trial. Mr Speaker probably enough said about that at the moment other than I believe that it is, as I said a useful tool for the courts and a useful alternate dispute resolution mechanism for utilization in Norfolk Island and appropriate in this day and age in an attempt to try and avoid some of the significant costs that attach to disputes in this day and age and I commend the bill to the House

SPEAKER Further debate Honourable Members,

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 Chief Minister. Then I put the question to you Honourable Members

QUESTION PUT
AGREED

The ayes have it thank you, that matter is so adjourned

ROAD TRAFFIC (PROVISIONAL LICENCES) BILL 2005

MR NOBBS Mr Speaker I present the Road Traffic (Provisional Licences) Bill 2005 and move that the Bill be agreed to in principle

SPEAKER
agreed to in principle

Thank you Mr Nobbs. The question is that the Bill be

MR NOBBS Mr Speaker this bill was introduced on the recommendation of the Road Safety Committee. The Road Safety Committee meets regularly and has established a regime of sub committees looking at various aspects of road safety, such as legislation, road conditions etc. the Committee is deliberately bringing forward to the Legislative Assembly single issue items to avoid any confusion which may be created by bills encompassing multiple issues. The committee is concerned in relation to new drivers and particularly in relation to what may be called the inexperience factor which has been shown to be an issue. The Committee suggests initially the need for better learner education and its pleasing that the school has taken up the challenge and is establishing a programme for students which the committee fully supports. It is a fact that inexperience drivers in the modern car have from a road safety perspective been identified as a specific concern. Accident rates in this sector of drivers has unfortunately risen to a state where a number of countries has had to initiate specific programmes aimed at curtailing the mounting toll. The Road Safety Committee in regard to inexperienced drivers has made suggestions in relation to specific aspects which it believes will establish a safer environment in which new drivers can gain the necessary experience. The Bill before Members today which I intend in due course to adjourn seeks to provide a more stringent regime for the licensing of young drivers through changes to the learner-driver rules and introduction of provisional licences. For ease of reference the bill does not make numerous amendments but in fact provides a replacement for part 5 sections 15 to 24 of the current Road Safety Act. The Bill refers to the learners licence and makes such changes to the existing provisions as the Registrar and not the executive Member approves the licence format, raises the minimum age a person may hold a learners to 16 years of age, learners licence remains in force until the person attains the age of 17 years, precludes the holder of any other licence holder than a holder of a drivers licence or a recognised licence being a nominated driver for the purposes of the learner licence arrangements. A recognised licence refers to a licence from a recognised jurisdiction outside Norfolk Island. The bill introduced the new concept of a provisional licence which cannot be issued unless the application has held a learners licence for a minimum of six months and the applicant is at least 17 years of age. The provisional licences have some restriction on drivers including only one passengers permitted in the vehicle, a limitation of blood alcohol to a level of 0.02%, provisional licence holders cannot act as licenced drivers for a leaner unless their licence is endorsed by the registrar to drive between 10 pm and 6 am. P plates must be displayed inside the back rear window and in the case of motor bikes, no pillion passengers permitted in the first 12 months of holding a provision licence. The bill varies the granting of drivers licence to include the requirement that a person must have held a provisional licence or recognised licence for three years and the age of which a licence may be issued for two years instead of three is raised to 70. There are provisions specific to drivers under 19 including weight restrictions on a vehicle, loads carried and also precludes them from driving commercial vehicle as at present. It is my intention to move an adjournment in due course but I will await contributions. Thank you Mr Speaker

MRS JACK

Mr Speaker, just going through the proposed bill and I do have a bit of trouble with provisional licence is a license that's issued to a person who is at least 17 years of age. Now let's just take it that this provisional holder is 17 years of age you've got drinking supposedly you can't go into a bar unless you are 18 years of age and yet here you can be in charge of a vehicle hold a provisional licence, be 17 years of age and have a blood alcohol content and I find that may a tighter definition should be given, that if you are under 18 years of age I would rather have a nil content be allowed. I see that if you are in excess of 15 milligrams of alcohol per 100 mls of blood you are disqualified from obtaining a licence fro at least twelve months but I think there is a range here with a blood alcohol level greater than 20 ml of alcohol per 100 mls of blood the cancellation of licence or 10 penalty units. I just think it should be nought if you are under 18 years of age, it should be nil tolerance. Perhaps that could be discussed while the bill sits on the table, thank you

MR GARDNER

Mr Speaker I guess when it comes to legislation I always try to assess it as to determine what the benefit a piece of legislation is if it were to progress

through all stages in the House and actually become law. I've been scratching my head a little about this one to wonder why we now need to change to a regime that provides for learners plates and provisional plates and the like. I can probably hear all of the under 19's and over 16's on the island at the moment if they were listening to this, saying well, Mr Gardner and Mr Brown and Mrs Boudan, and Mrs Jack and Mr Christian and Mr Nobbs and Mr Sheridan you didn't have to go through a learners licence arrangement or a provisional plates arrangement so what is the purpose of this. Is it to do with education. Maybe I probably have some views about saying that there are other ways to do it without having to legislate for it. Is this driven by concerns over the way people drive. Is having a piece of legislation in place going to control that. I don't know whether it will. I would have thought that we've got a significant raft of legislation out there whether it's in the Police Offences Act or under the Road Traffic Act currently or under other bits of legislation around that probably are sufficient to for want of better words provide comfort to people that there are mechanisms out there for the safe operation of vehicles and those sorts of matters. I too am a little betwixt and between about just what the fixing of a plate in the window is going to achieve and do. Is it going to somehow miraculously slow a driver down. Is it really just signifying because its in the back window of a car if you are following this car be particularly careful because these people are only learners or provisional licence holders. There's nothing in the front to tell you coming from the other direction. I just really have difficulty with this in exactly what it is that it is proposed to achieve in the long term. I know there are other jurisdictions that have provisional plates and learner plates but there are also other jurisdictions that have abandoned that as I think the arguments are it really hasn't achieved anything useful in the long run. There are also issues raised by this and a couple of people have already said to me is this designed to keep 16 to 19 year olds off the street and looking at the provisions of the legislation you could probably say possibly. I'm not sure whether that's the intent or not but again the youth of the community who this will effect if they are listening or have already got wind of this are probably saying well how come you are targeting us. Why are you beating up on us. You people were just the same I'm sure when you were 16 to 19 for those of us who can remember that far back but why is it that we are introducing this. Exactly what is it proposed to achieve and you know, I would certainly be more comfortable with the provisions of this legislation if it could be demonstrated to be clearly exactly what it is going to achieve. There was a question earlier today about the registration of motor vehicles. Already I think it's been shown for years, its not a reflection on the current police officers on the island, but already it's been very clearly demonstrated on the island over a number of years that there are difficulties that are encountered by people that are asked to police these types of provisions in just maintaining a watching brief on things as simple as registration of motor vehicles and the criticisms continue to arise. I know Joe Blow out there has an unregistered motor vehicle and they've been driving around in it for 3 years. And nobody's jumped on them. The little stickers now under the Road Traffic Act that we have to have in there unless you get up pretty close to the vehicle and have a look at it you are not going to know whether it's a valid one or one from February or the February before. These are all issues and they are issues that are raised when we look at providing legislation. For example, what is the p plate going to achieve or what is it going to tell the community if it's sitting in a window and for example, I might drive my son's car with the p plate in it. Does that make me a provisional driver or if he drives my car without the p plate in it does somebody actually stop him. Walk up to him and say hang on. Can I have a look at your licence. What is it that this is going to achieve. I'm really struggling with it and as I said, in other jurisdictions it's still in place. It's been abandoned in others but I really need to be convinced of exactly what this type of legislation is going to achieve for us. If it's about road safety I need to know who the provisions are going to assist in road safety. If its about trying to impose the youth again are going to be saying what sort of police state are we looking at now you are going to put a curfew on us at 10 o'clock at night between the ages of 16 and 19. I just think that we need to look a little longer and harder at this to see as I said, what it's going to achieve and exactly what the impact and imposts that are going to be placed upon people by this legislation. Mr Speaker those are my initial views on this. I really want to have further discussion with a number of people about it. As I said if I can be convinced that there's some real benefit in this and that its going to do away with honing and it's going to stop people ripping up the roads and burning furniture in the compound or doing things like that well there's probably a benefit, but I don't know whether that's what its going to achieve. If it means its going to reduce the road toll as far

as not the people who die on the roads but the number of accidents on the roads, I want somebody to convince me that that's going to happen. I can't see how these provisions are going to make that happen. If it's part of an educational process I can probably argue that there are other ways of doing that and certainly there's been novel ideas that have come forward from younger people in the community about a driving range. Not a gold driving range but where you can go out in a vehicle off the main road and actually go for it and see whether you are able to handle a car the way that you think that you can and to learn by that without endangering anybody else and they are suggestions. All part of the education process that might be useful in pursuing and certainly without taking anything away from the Road Safety Committee I'm sure they are considering those views but I think it's fair to say that I'm not terribly comfortable with these provisions unless I can be confident and convinced that they are going to provide some resolution to some of those issues which I think this bill has been designed to address. I think it's going to fail if that's the case. Enough said. Thank you

MR T BROWN

Mr Speaker I agree with much of what the Chief Minister has said. I can't see this working to increase safety on our roads. I can't see it having any tangible benefits. I was wondering whether or not the Minister for Roads is intending to introduce a T plate for tourists or maybe an M plate for mature people in the community like they are planning on doing in other jurisdictions if that's the way that he wants to go. People have said that the kids here already have a learners licence and that's when they are on their motorbikes. They are on that for a year. They get to know some of the road rules and the only difference between that and when they jump into a car is how the vehicle itself works. It's my understanding that during those first 12 months on bikes you can't have a passenger on it anyway so I'm not quite sure what dealing with that is. I would like to wish the Minister luck if he plans on telling an 18 year old, someone who can vote, that they can't be on the roads after ten. I would like to wish him luck on telling someone who's got their full licence at the moment that they are now on P plates when they haven't broken any laws. I think that with legislation such as this we are thinking that we're bigger than we are. In Australia it's not the police who take drivers for their licences generally it's someone in the road Traffic Authority. In Norfolk Island it is the police. They know who the kids who have just got their licences are because they're the ones who took them for it. So I fail to see how a P plate or an L plate sitting in the window would help them. We already have fairly strict laws with respect to roads on Norfolk Island. You can't drive above 50 k's per hour. Whether or not people do that, that's an enforcement issue but I think our biggest problem is enforcement. Not from lack of trying. In most instances. But it's a really hard thing to do and having more laws passed to attach a stigma to young drivers I don't think will help safety in any event and I won't be supporting this. Thank you Mr Speaker

MR NOBBS

Mr Speaker as I said the Road Safety Committee has come up with these proposals. They believe its in the interests of improving the safety on the roads and I've got no problem at all with them. One comment was made, if we can remember back when we were young and we're all oldies and all that sort of thing was going floating around but the situation is that when I was younger here there was 900 and something people on the island. There's more today. There seems to be greater freedom at the moment around as well. There's more things to actually do now. One of the issues that came up with Mr Tim Brown is that it's in at the present time. It is. Most of this is actually in the current legislation but as I said earlier we took out part 5 sections 15 to 24 we've taken out, the proposal is that they be taken out and replaced by these so there are some conditions in here that's in the current bill. There's a list of six licences in here but when you look in the old act there is only three. But in the remainder of the act there's another couple floating around in there that you can have as well including probational licences and special licences and all that. I take on board what they've said. The Minister for the Environment mentioned nil alcohol and I think in some jurisdictions there are nil alcohol for P platers right up. That doesn't stop them having a drink when they are 19 or something but they just can't drive. If they are caught driving with it well that's the go. They are gone. In relation to the police taking the learners for their licences now that's fine but just remember we have three policemen here at the moment that come in. they change over in two years. One's gone from the start of this year already and another guy's going at Christmas time I understand and I assume that the Sergeant will probably be going in

the next year so there is a change over in the police here. I believe what's been tried, as I said in the opening arrangement, is that they are trying to create an environment for safety and whether we need an area. It's been suggested and the Road Safety Committee supports it, that a small track be put in somewhere for go carts and the like. Whether that will be an advantage. Whether they want a burn out arrangement for the youngsters I'm, not too sure but as the Chief Minister suggested that they should be allowed to go into an area and go for it. I don't know what the insurance situation would be as regards that but I think we need to accept that a young driver needs experience and they need to get that in as best environment as we can provide and that's what the idea of this is. I don't think that putting p plate or l plate or whatever it is on a vehicle is all that bad myself personally but it reminds the person that that's their status. I would like to hear a bit more from other members in the month between now and our next meeting and I'll be talking to members accordingly but if there's no further debate I move that debate be adjourned and resumption of debate be made an order of the day for a subsequent day of sitting

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

QUESTION PUT
AGREED

The ayes have it thank you, that matter is so adjourned

SUSPENSION

Honourable Members, I'm going to suspend now for lunch and we might return at 2.30 this afternoon

RESUMPTION

Honourable Members, we reconvene after lunch. And we continue with Notice No 8

COMMERCIAL ARBITRATION BILL 2005

MR GARDNER Mr Speaker I present the Administration and Probate Bill 2005 and move that the Bill be agreed to in principle

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

MR GARDNER Mr Speaker in tabling the explanatory memorandum I'll make some brief reference to it rather than read it into Hansard in its entirety. Really just to paint a picture of the purpose of the Bill rather than going into great detail at this stage and then following debate and any input Members may have to seek to adjourn the matter and make it an order of the day for a subsequent day of sitting. Mr Speaker this Bill has been prepared to provide Norfolk Island with a modern Arbitration law. While it is in conformity with the Commercial Arbitration Act 1984 of New South Wales, that legislation is in turn in substantial conformity with the uniform commercial arbitration legislation passed in the early 1980's in the Commonwealth and in turn with legislation in the United Kingdom and Hong Kong. Commercial arbitration, both domestic and international, is and has been an important aspect of commercial business in various areas of the construction industry, shipping, and international trade for centuries but has not, until recently, been an important part of Norfolk Island law. This was brought to the fore in some recent proceedings that highlighted the absence of such law. Although it appears that the Act of 1698 applies in Norfolk Island, it does not make any rules for arbitration but only for an arbitration to be made an order of a Court if the parties have so agreed. Norfolk Island has in the past and will in future have reason to enter into significant contracts for works involving contracts with entities in Norfolk Island, the Commonwealth, or other countries. With the continued likelihood of such contracts being required Norfolk Island is at a disadvantage, for without any Arbitration Law it is not feasible for agreements to be made subject to the Law

with accepted standards in other jurisdictions in relation to these type of matters. The history of the Administration and Probate legislation in Norfolk Island has historically picked up the legislation of the A.C.T. on or about 1976 the difference being between the ACT and ours is that ours hasn't developed or evolved over that period of time at all other than with some very minor amendments so I understand and so we haven't kept up to speed with the recognition of things such as de facto relationships, and also illegitimate children and all sorts of matters that have been addressed in most other first world jurisdictions during that period of time and provisions made for it. I see it as being important legislation for Norfolk Island and as I said it now puts under our own letterhead I guess as a law of Norfolk Island very clearly legislation that sets out and reflects basically the legislation that exists in the ACT today picking up those matters that I referred to earlier. It also does incorporate into it provisions for testators family maintenance and again picking up provisions from the current Family Provisions Act 1969 of the A.C.T. and allow persons who the courts are satisfied ought to have provided for in a Will but who have been ignored or under-provided for, to be allowed to enjoy a share in an estate as the Court determines. This provision is in identical terms as provisions of the ACT referred to where the reference date is in respect of persons who died before 1 September 1969, the commencement date of the Act. The intention of the provision is to provide benefits for persons who have been disadvantaged either deliberately or unintentionally. Mr Speaker I'm keen to receive comment from both obviously around the table in relation to this legislation but also from the wider community and in that regard I've already had representations from within the community about the impact of this legislation and also discussions about the provisions of de facto relationships as is encompassed in the provisions of this proposed legislation and those contained in the De Facto Relationships legislation. I'm heartened that people have shown a keen interest in it and I certainly hope in the intervening period between introduction into the House today and me looking to finalise it either at the next sitting or the following sitting that there is an opportunity there for Members of the public and obviously Members around the table to raise any issues as far as the provisions of the legislation are concerned so that we can adapt and have in place something that's going to serve Norfolk Island well into the future. I commend the Bill to the House

MRS JACK

Mr Speaker, Chief Minister I see that this will commence thirty days after being published in the gazette. If you have a will undergoing probate at the moment and it is wound up before that date have you just dipped out with regards to this or the fact that it's been introduced into the House does that have any sway at all

MR GARDNER

Mr Speaker the provisions of this legislation as I understand it are intended to apply to things obviously in the future following commencement however will equally apply to those matters that have not been finalised in the course of I guess business for want of a better word as it would stand so something that is finalised within those 30 days, this would not intend to have application to so it really would only have application to those matters that had not been finalised

MR BROWN

Mr Speaker I have difficulty with section 53 of the bill. Members will see that this intends to treat same sex couples in the same way as normal couples and I don't think it's appropriate. I think it could also be extremely confusing. It invites us to jump into the cupboard and have a look at what occurs there. spy from behind the curtains. It will take quite a bit to convince me to support that. I have difficulty with the family provision only in so far as the commencement date is concerned. In my view people are entitled to go about their lives in accordance with the law as it stands and in case of a person dying after the date of introduction of the Act I have no difficulty but in the case of a person who has died before the introduction of the Act again, it will take some convincing before I will accept retrospective effect is appropriate. Having said that the introduction of Testators Family Maintenance legislation is something that is over due and that is what the Family Provisions sections beginning at section 134 are intended to be. I'm uncertain as to whether it is appropriate that children of a de facto relationship be treated as legitimate. I'm using the terms from the bill. They are not the preferable terms that I would use but it suggests that other children should be treated as illegitimate. Well is that appropriate or not. I think we need to think about that. If we are going to fix the problem for some shouldn't we be fixing it for

SPEAKER Thank you Mrs Jack. When you reach the stage of wishing to move that, would you be kind enough to let me have the appropriate words

MRS JACK Mr Speaker, thank you. I just thought after members have had their views I would seek leave to move that

MR T BROWN Mr Speaker I'll be abstaining from this as I mentioned at the last sitting as I'm a Member of the Planning and Environment Board but I think it is important for all Members to remember that the decisions on this were unanimous all the way through the different stages of the application. It was unanimous not to support it but in saying that I'll be abstaining from voting on this matter thank you

MR NOBBS Mr Speaker I spoke last time about it so I won't hold you up too much gentlemen and ladies but the situation, I don't believe we should be dealing with a one off. I know that Mr Christian says we should be dealing with them but I think the provision was put in there to fix up things that happened like there was a small error that was quite large for the actual lamp holder but it was a small error in the plan which we fixed up very quickly that was a complete and utter error and I think those sorts of issues are the ones that this provision allows to happen, were put into the plan and I would suggest there will be a flow on from this and that now that the Minister for the Environment is taking up the issues I believe that it should be left to the community to have input and to decide how they really want to progress and I know that there are a lot of problems following subdivisions in the past which were family subdivisions and I've been through this, they were all long and narrow strips to end up back at water and there are significant problems in the area of this block as well. There are others with problems and that's something that we have to address but I don't believe that we will address it be dealing each one out one at a time I think we have to deal with it overall and I would hope that as Mrs Jack progresses the review that she proposes in relation to those different titles that will come out of it I will definitively support us moving to a review but not dealing with one at a time. Thank you Mr Speaker

MR SHERIDAN Thank you Mr Speaker, Minister, and you may correct me if I'm wrong but I believe that if this motion gets up today does that mean that it goes out for public consideration and comment? Is that correct

MRS JACK Which consideration are you talking about? It goes out to public consultation

MR SHERIDAN So it goes out to public consultation again

MRS JACK Excuse me. It hasn't been out to public consultation before

MR SHERIDAN Yes, sorry, yes, so it hasn't been out, but if the motion was to get up and the proposed subdivision of this was to go out for public consultation I think in fairness to these three people who find themselves owning one piece of land I think I would support it just for that reason alone and it doesn't necessarily say that it's going to happen, the subdivision of this block, if this was to go out for public consultation I think in fairness to these three people I would support it for just that reason alone

MR CHRISTIAN Thank you Mr Speaker, I'm happy for the Minister for the Environment to move her amendment whenever she feels the time is right to do so. But I must say that part of what drives me in using this mechanism in the plan lies with the terminology in zoning. We have rural and rural residential and to me the connotations of the word rural implies some sort of ability to undertake agriculture on the land and if you look at the portions of land in question and the zones in the immediate area, the area out there which is zoned rural residential and under which subdivision would be approved is basically land that is as flat as a tack that is perfectly suited to agricultural type pursuits. However four metres

across the road which isn't a public road and therefore should not have been used as a demarcation between zones in my view, the land is hill billy country suitable for probably putting a house on where you can have concrete and all weather access but totally useless for agriculture on any scale and that's why I'm supporting the motion that's before the House at the moment. Thank you

MRS JACK Mr Speaker, I can see the concerns that have arisen between the 1996 plan and the 2002 plan stem from what was once rural a) and b) to rural residential, rural and even residential but it also stems from the fact that in the 1996 plan subdivision could occur in two hectare lots. Now when the 2002 plan was being moved the original idea was for ten hectare minimum lots in order to protect the rural aspect and view and this was got quite a few submissions as I imagine people would believe to say no, that is far too much and so there was some give and take and a compromise was reached on 4 hectares. Now another factor that came into it that caused concern for the previous Legislative Assembly and for members within the community was the fact that the Land Initiative, the Commonwealth transfer of crown lease to freehold was looming. Was in the wings and there was fear in some quarters that there would be a rapid application of subdivision to occur and people felt at the time that by making it from two to four it would slow it down and indeed in some instances prohibit land that had once been able to be subdivided would now fall under the fact that it wouldn't be subdivided. Now it wasn't a perfect solution. There will never be a perfect solution to the problem, especially if you are the owner of a three hectare block so my proposal with this is to try and move it forward for the people, my motion before the house today I shall introduce alternatives. I can only say that the proposal put forward by Mr Christian for all the best intentions would in fact I think falter at a signing off stage and we need to bring it out and we need to review it. I don't believe we can wait for the review to occur in 2007. this is an issue that needs to happen sooner rather than later and that's why I'm prepared to bring it forward now, thank you

SPEAKER Further debate. Then Mrs Jack you might formally move your motion and restate it to give additional clarity please Mrs Jack

MRS JACK Mr Speaker, I move that after the word House the reading be that "by resolution direct the Executive Member to do all or any of the things that the Executive Member may do under this act in relation to a proposed variation of the plan as sought in the application

SPEAKER Thank you. That's the amendment that's in front of us Honourable Members

MR NOBBS Mr Speaker if I may. I was just wondering what application are we talking about

MR CHRISTIAN The application that exists at the moment. The one that's before the House

MR NOBBS Or any application

MR CHRISTIAN No, the one that is before us

MRS JACK No the particular one that's reference by the portion 87f, the application of portion 87f

MR NOBBS So at the next meeting you'll accept a number others

MRS JACK No. I'm moving that, that motion of Mr Christian's be deleted and that we in actual fact follow the procedure as laid out under the Planning Act namely clause 10(3)(b) that we work to the Planning Act and not go outside the plan which is, with all due respect, Mr Christian's motion

MR NOBBS Well my question is, and I haven't asked a question for a while, is why wasn't this done before then

MRS JACK Mr Speaker. Thank you. It wasn't done before because the application came in to the officer, was processed by the Administration and under the subdivision requirements within the zone it didn't fit those requirements so they said no, however as protocol it still has to go to the Planning and Environment Board for their consideration and all the things that they are required to consider under the Planning Act and the Norfolk Island Plan were considered and they too unanimously found that it didn't fit the requirements for subdivision in the rural zone so they too said no. It then came to me and I said well if it's failed in both those cases I don't consider it should go to public consultation because it has failed on the first two processes that is why I had to bring it to the Legislative Assembly and advise you as stated in the Planning Act why the application has failed. The Legislative Assembly then has the opportunity to either agree with my final decision that it has failed or by resolution direct me to continue the process. Now as stated in last month's Legislative Assembly I like consistency in planning matters and a very similar application had been turned down before so with all due respect to the people themselves and the emotive issue that was coming involved I said no, I will stand by that decision and say no. However, feelings ran contrary to that in the last meeting and Mr Neville Christian brought forward his motion. Now I'm saying I can't live with that motion because its stepping outside the plan. If you disagree with me by rejecting the application which was to take no action then by proposal is that you direct me to do the next step in the Planning Act. I'm prepared to do it. I still have a problem doing it, in actual fact going against my consideration which is consistency in planning matters but at the same time the applicants need to have something done with their application. They cannot continue to be on hold

MR NOBBS I actually am still a little confused but I still actually can't support the process. I thought the decision has been made and there was a need to vary things if it was to go ahead and that is to vary the plan

MR BROWN Mr Speaker perhaps the Minister for the Environment can correct me if I've misunderstood what she's said. I understood the Minister to tell us that the plan contains a procedure and that the amending motion basically instructs the Minister to take the actions proposed in the plan to the next stage which is set out in the plan so I understand that the amendment is not saying let's go and change things, it's saying please continue in accordance with the plan

MRS JACK That's correct

MR BROWN Now if that's the case it seems awfully sensible and fair Mr Speaker

MR NOBBS I agree with what you are saying to a degree except with the fairness because if it's in the plan why wasn't it followed in the first place

MRS JACK Mr Speaker, if I may. Thank you. I tried to, and looking in Hansard I stressed on more than one occasion that what was being proposed was asking me to work outside the plan and in actual fact if you wanted to move ahead please do or instruct me to go to clause b. However. You didn't listen. And Mr Christian's motion was put forward by him and got up! I was the one who said no. I was the one asked if I wanted to have a count. I referred to my feeble voice if I recall. That is why we are at this stage and the poor applicants has had another month go down the gurgler

SPEAKER We have an amendment in front of us Honourable Members. We are looking at the amendment and if there isn't any further debate I'll put the amendment to the House. This is Mrs Jack's amendment

MRS JACK Mr Speaker, I was accused of being somewhat frivolous in my response to this motion being brought forward last week by a few people and have had some serious conversations with others over their concerns and the lack of action that seems to be able to be taken by the local constabulary even when given the number plates of a series of cars that pass this particular persons residence every weekend, Friday, Saturday and Sunday nights so there appears to be in one persons case at least the serious need to get rid of this problem that causes sleepless nights. I guess I may have to change my view. I'm still unsure though Mr Speaker. I think it's the music rather than the equipment. I still find it a difficult subject and I would really appreciate further input from other Members thank you

MR SHERIDAN Thank you Mr Speaker. I think this is one of the most ridiculous motions that I've ever seen come up in the twelve months that I've been here. What we are trying to do here is curb the noise I suppose. If they were driving around the road playing Pavarotti or some sort of different type of music that would be acceptable but to bring this in as was initially said, to ban the importation, then to ban the installation, and then to provide the police with the power to seize and retain. It doesn't say whether or not its turned on or off, it just gives them to power to seize and retain the motor vehicle or the sound system for the seven days. I just think its draconian and I don't think we need it here on Norfolk Island. I acknowledge that yes, there are some vehicles out there that do drive around with their sound systems up a bit louder than they should but I think that there is legislation and rules and regulations already in force that can make those people stop or abide by the laws that we have in this place at this point in time

MR BROWN Mr Speaker the whole purpose of the motion is that the present legislation is not physically able to be enforced. It's not the fault of the police but the police actually have to hear it to do anything so it doesn't matter howl many people ring the police as the Minister for the Environment just said, and said hey there's these three number plates that are just annoying me to death. That doesn't help unless the police hear it. This motion is intended to be a world leader in environmental peace and it does indeed prevent the installation. It doesn't matter whether it's turned on or off. If you choose to put it in your vehicle your vehicle could be nabbed. This would require legislation before it becomes anything. The mere passage of the motion won't achieve anything but the intention is, if it's installed your vehicle can be seized and if you choose not to take it out, your vehicle can be seized and sold. I think that's appropriate. Thank you

MR SHERIDAN Mr Speaker I still reckon it's a ridiculous motion and the sooner we get rid of it the better and I wouldn't like to see it go any further

MR GARDNER Mr Speaker I too have had representations made to me in regard to what's termed boom boxes and I too hear them on Friday, Saturday and Sunday nights and other nights during the week. By the same token I also hear noisy vehicles with flow through mufflers, aircraft from time to time that cause concern whether they are 737's or the micro light type arrangements. I hear noise from parties up and down the road but I don't know whether that in itself is enough to warrant banning all those type of activities because they cause us some distress. Certainly there has to be mechanisms that address the issue without having to take that step of banning that type of thing. I think for example under our environment legislation provisions, maybe even under the Police Offences Act there are provisions that allow for example the police to enter a property to ask that a stereo be turned down, or if there is ongoing complaint to have words with the owner and ask them to cease and desist for want of better words the activity that they are undertaking. I don't know whether those same sorts of provisions can be replicated within the Road Traffic Act or if they are replicated there already just how we can fine tune them. Somehow. Is it education again. If it's education then educate people to the fact that there are other people who share the same space and that you need to be conscious of that. Well with the amendment to the Road Traffic Act that was proposed earlier in the day, maybe the problem will be solved because there won't be any noise after 10 pm. I think that most people have made representations to me that these boom boxes seem to be installed in vehicles that are driven by younger drivers and it might be that the bulk of them are encapsulated in the 16 to 19 year age group. It may not but I'm not

convinced that we need to go down this road right at the moment. I think we need to give it some further consideration on just how we can address it. If people aren't going to listen, unfortunately we are forced from time to time to pass legislation that basically will only target one or two to the detriment of the whole community. Now I don't know whether that is a good law. There'll be dozens of different opinions about that but occasionally it is necessary to prevent those things from occurring but by the same token I've also had representations from others that probably offended, is the word I would use by the motion. People who do take a pride in their motor vehicle and spend a lot of hours on it. Some of those representations have suggested that because they spend so much time preening their motor vehicle and what's attached to it and what's installed in it is probably keeping them out of other mischief that they might potentially get up to but it gives them an interest and some people are very proud of what their car is and how many cylinders it has and the duco that's attached to it and the wing mirrors and all those sorts of things as they are very proud of what's installed in it and as far as music systems are concerned, and there are some people out there who do like very large music systems but don't cause the grief that some drivers are causing, some owners of these systems are causing. Some I know are quite happy to drive along with what we would regard as a normal volume level for a stereo or radio within a vehicle and they only use that bigger system if they are at a barbeque on a cliff top with their friends and they are entertaining people and maybe having a party so they don't deliberately go around and turn these things up, crank them right up with these super amps that are attached to cause any grief around the island, so again, it's a case of maybe just one or two and I think it's probably fair to say there may be five or six of them but five or six on the island that cause the grief around the island continually virtually on a week by week basis,. Now how we target these I don't know but I've heard that already there are a number of older Members of the community who when they see or hear people interfering with other peoples space within the island just quietly tapping those people on the shoulder and saying now listen here, you're upsetting a few people. You are causing distress in the community. You are upsetting some elderly people with the noise you are making to the actions you are undertaking and I think it is probably fair to say that some of those very well meaning people are having an effect on those people who are causing some of this mischief for want of a better word to the benefit of the community and to the benefit of those people who are involved in it. That said I can appreciate both sides of it. I'm not comfortable in progressing down the banning these things. If there are better ways of doing it then we have an ideal opportunity to really make this a model feature of where we want to go with control of what I guess would be a better term, unwanted behaviour within a small community. We've all got to live here. We all as provisions in the Planning Act make, that in 5 miles by three people still have to live here, they still have to operate and work and there are things that people normally are not prepared to put up with in their own back yard. I mean we face that with crushing. We face that with different noxious industries as the plan states it, in different areas. Some yes are prohibited. Others there's flexibility within the plan to be able to adopt them as to whether they are of a benefit to the island as a whole. Now I can certainly understand and appreciate that to come back to that is to say well what on earth benefit is a boom box to Norfolk Island and I appreciate that but really the example I'm giving with planning is that we try to accommodate as best we can the various activities that people undertake in Norfolk Island and I just am firmly of the belief that there is probably a better way of doing it then banning it outright. I would rather than be supporting this at the moment, buy some time to see whether we can work out a different strategy than the outright ban of this to the satisfaction of the majority of people in Norfolk Island. I would guess that people out there in the listening public, the words that have been expressed around this table today, I hope to those who are the owners of these boom boxes, that there will be some notice taken of that comment about the noise, the inconvenience that it causes, about the stress that it causes to some people, about the fear that it engenders in some people and to maybe, just be a little bit more considerate of the neighbours and the people of the environment generally in Norfolk Island. I won't go any further than that at the moment but certainly if we can't resolve it, if people are going to continue to do it, unfortunately we are going to be forced into a position to ensure that we eradicate that problem and unfortunately as alone of these things are, it's only a few numbers that paint a bad picture for everybody else and that's the unfortunate side of it. That said Mr Speaker I'm not inclined to support the motion at the moment. I'm happy if Mr Brown would look to adjourn debate on this matter and I'm quite happy to work with him and the

Minister responsible for road traffic in my role as police to see whether we can resolve this issue in a different way rather than in an outright ban of that type of equipment

MR T BROWN Mr Speaker unfortunately for the Chief Minister I don't think many of the people who actually pose the problem with boom boxes would be listening to this broadcast. I can understand the thrust of this motion from the Minister and whilst it means well I don't think at the present I can support it. There's probably other ways that it could be done but in saying that I probably can't vote against it because it is a worthwhile aim so unless it's adjourned at the moment and other ways to control this brought in I'll be abstaining. Thank you Mr Speaker

MR BROWN Mr Speaker I've listened to what the Chief Minister has said. If the Chief Minister has a reasonable degree of confidence that he and the police in the course of the next month can overcome the problem and I would suggest that, that will require stopping people even if their noise isn't being made at the time. Pointing out that complaints have been received. Pointing out that if it doesn't stop then new legislation will be passed and telling them they are being watched, because that will be the sort of thing that will be needed, then just sitting back and saying well I didn't hear it so I can't do anything certainly won't work. I don't blame the police for sitting back and saying I didn't hear it therefore the existing legislation doesn't let me do anything but if we want to solve the problem we've got to go a step further. Some will call it harassment. Some will call it all kinds of things but unless we are prepared to say to the police look we need you to start stopping these blokes and letting them know that although they might not be able to hear anything going on around them as they are driving around, the whole community can read their number plates. On that basis I'm prepared to move an adjournment and I so do if that is convenient

DEPUTY SPEAKER Thank you. Honourable Members, is there further debate? 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

EVIDENCE (AMENDMENT NO. 2) BILL 2005

Honourable Members, we resume on the question that the Bill be agreed to in principle and Chief Minister you have the call to resume

MR GARDNER Mr Speaker thank you. As you would be aware and the members around the table would be aware I introduced this legislation at the last sitting of the House. I think at that time I pointed out that its primary purpose is to make extensive provision for audio and/or visual evidence to be provided in the courts. The legislation proposed is largely based upon legislation in place in New South Wales, it is not particularly complex and it is something which I think we will get a great deal of benefit from, particularly with the progression of the Memorandum of Understanding under the Legal Aid arrangements in Norfolk Island where subject to the signing of the revised Memorandum of Understanding in the not too distant future there will be funding made available for both legal aid through the court system and be able to be utilised by other parts of the community for the use of the latest technology in Norfolk Island namely, audio and audio visual type links for giving evidence in courts and before tribunals and even extending to the likes of the hospital in tele medicine type applications. Obviously there's a great deal of complexity involved in all of those issues and they are something that the detail will be developed further on but this bill before us makes a provision for that. There is already some provision as I said last month in other parts of Norfolk Island's legislation to take evidence by audio visual and video links but this basically will in effect make provision for that across the board and as I said last month Mr Speaker I commend the Bill to the House. Thank you

MR BROWN Mr Speaker this is a worthwhile amendment. It massively reduced the cost of administering the justice system if the giving of evidence can be simplified and the proposals contained in the bill certainly would bring us into line with the rules which apply in a number of other jurisdictions, so I'm pleased to support it

MR T BROWN Mr Speaker I also will be supporting this bill but in saying that I would just like to say that it's a lot easier to lie to a video camera than in court while you are under oath. Thank you Mr Speaker

MR NOBBS I support the Bill Mr Speaker and I'm pleased that we are actually getting into video conferencing and the like because it's something that's been around for a while and I'm sure it could be more useful than at present in other areas of medicine and the like so I'll support the bill for sure

SPEAKER Thank you. Is there further debate at this time? Then I put the question to you Honourable Members, that the Bill be agreed to in principle

QUESTION PUT
AGREED

Thank you. The Bill is agreed to in principle

Thank you. Do you wish to dispense with the detail stage. We so dispense with the detail stage and I seek a final motion

Thank you. Is there further debate at this time? Then I look to you for a final motion Chief Minister

MR GARDNER Mr Speaker, I move that the bill be agreed to

SPEAKER Thank you Chief Minister. Then I put the question that the Bill be agreed to

QUESTION PUT
AGREED

The ayes have it thank you, that Bill is agreed

BUSINESS TRANSACTIONS (ADMINISTRATION) BILL 2005

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

MR NOBBS Thank you Mr Speaker. This comes as a package of two bills. The first one is this the Business Transactions Administration Bill 2005 and the second one is the Business Transactions (Levy Imposition) Bill 2005. This Bill provides for, in the sale of a business it fixes a levy which is fixed by the Business Transaction Levy at 3% for the sale of a leviable property. This includes such things as the sale of a business, including partnership interest, including goodwill, trademarks, licences or patents but not such things as a stock in trade, cash that passes with the business, livestock or motor vehicles that must be registered. The levy is payable by the person to whom the interest is transferred or conveyed. So what the bill really imposes is a fee on the sale of a business whereas at the present time now the fee for transfer is actually on the land and not on the business so if there is no land involved in the transaction or if there is both land and business it's only on the sale of the land where a 3% levy is imposed. This bill proposes to extend that sale of the business

MR T BROWN Mr Speaker Minister I notice there's the creation of a Chief Revenue Officer. Is that going to be a completely new position or something that's filled by somebody in the service

MR NOBBS It's to be filled by somebody in the service. The term Chief Revenue Officer when we were looking at various new revenue raising functions including NSL and to find a person who would take some responsibility in that area it was decided that we would use the Chief Revenue Officer per se and it won't be a new position within the service. It will be a new title but not a brand new person from outside

MR T BROWN Mr Speaker will that person attract a higher wage than they currently earn

MR NOBBS I wouldn't think so. I wouldn't have thought so. I wouldn't have thought that there would be any cost involved in this but it's just that's what I'm saying. The Administration will be through that particular person

MR BROWN Mr Speaker in my view the timing is unfortunate. The commercial community is on its knees and we are wanting to charge them. When a business is sold a buyer will be prepared to pay a particular price. They won't be prepared to pay that price plus such add ons as we may seek to impose so the likelihood is that a vendor already having done it tough would have to drop his price a little further in order to cope with this. If we were being seen as having done more than we've done to create efficiency in the public sector we may have a justification of seeking to impose this but what we've done is freeze recruitment. Some would say that's a good thing but we've overdone it. Refusing to allow the recruitment in areas where it needs it. We've put in a ban on overtime but we haven't imposed spread of hours and sensible rostering principles so all that banning overtime has done is caused some positions to be filled for only part of the week while people take more than one hour off in lieu of their overtime for every hour of what would otherwise have been overtime that they worked. I couldn't support this today. If it's part of an overall package that's creating efficiency I would certainly be happy to look at it again, but in the current climate I can't support it

MRS JACK Mr Speaker, from what the Minister for Community Services is saying it's the purchaser that's paying this fee. Is it not the vendor. My concern is that in these hard time the people are already dropping their prices. They will want to recoup some of that money so they are going back up and there's the realization that we are assisting in the business not selling. In the meantime it's never going to be a good time to introduce this because what has been able to be sold in the past and never have any levy or tax imposed on it and now there's this line in the sand and some are going to have to start. I think it's better to introduce it maybe this time and wear it or in the good time and maybe have hopefully have more money flowing in but when is a good time to introduce something that is going to be an impost, to the people who are doing it tough. It's not going to happen, that good time

MRS BOUDAN Thank you Mr Speaker. I'm not prepared to support this bill. I believe it is premature

MR GARDNER Mr Speaker it might be useful to Mr Nobbs to also express my reservations about the legislation and particularly the timing. I don't see it as being unwanted legislation so to speak and maybe some consideration could be given to withdrawing it rather than defeating it on the floor of the house simply because of the time frames. Maybe just some delay in further progressing the bill. I would certainly be supportive of that but if it's looking to be finalised today I don't think I'm in a position to be supportive of it. There are a couple of issues which I would like to discuss with Mr Nobbs in relation to the application of it. I'm still not entirely satisfied that it does not extend to businesses operating in Norfolk Island that may well be part of a larger multi national type arrangement or international arrangement and I know that it talks about the transactions within the island and those sorts of things but being a functionary of a much larger body may cause some conflict and complications within the Administration of the legislation but I'll leave it at that for the moment

MR NOBBS 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 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 and I need to put that question forthwith

QUESTION PUT
AGREED

MR BROWN NO

Do you wish to have the House called Mr Brown? No. The ayes have it thank you, that motion is adjourned

Mr Nobbs in light of that do you wish me to call on the next matter

MR NOBBS Ditto what we've done for this one. They go together Mr Speaker

SPEAKER Yes, that wasn't the subject of the motion before us but I'm happy not to call the next matter on if you are happy with that and we'll move on to the next item. Both of those matters remain on the business paper but they'll be called at a subsequent time

SUMMARY OFFENCES BILL 2005

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 I don't have much to add to my introductory remarks of the legislation into the House at the last sitting other than to say that I have and without meaning to pre-empt the proper processes dealing with the legislation I have circulated to Members a brief detail stage amendment which takes account of a reference to legislation within the body of this bill which if it were to progress would be inaccurate as that legislation was earlier withdrawn from the House and instead is designed to insert an appropriate letter to current legislation in the guise of the Liquor Act 1960. I had had at the last sitting indicated that it may well be useful to include provisions in this legislation that would relate to the protection of persons involved in an emergency service in Norfolk Island, like those for example at the hospital who may have to deal with irate, upset persons, persons under the influence of drugs or alcohol and that type of thing and had a brief detail stage amendment produced in relation to that but in discussion with Mr Brown as the Minister for Community Services I think it probably will require expanding on that proposed detail stage amendment to incorporate situations where emergency service personnel might be operating outside of the hospital, for example in cliff rescue or persons requiring to restrain people at the airport and those type of issues and without wanting to delay the passage of legislation my proposal to Mr Brown in that regard as I had undertaken to address that issue would be not wanting to delay the passage of this legislation and propose the development of an amending bill to this legislation at a later date that will address those issues and I'm happy to work with him on that but obviously I'm subject to the comments of the Members around the table in relation to that and I look forward to Members support and comment in relation to the legislation and at the appropriate time I will be seeking to move a detail stage amendment

MRS JACK Mr Speaker, I find the Summary Offences Bill covers so much ground, so much variation in topic matter that I hope the Chief Minister will see some sort of educational programme going out about it as well on various changes. For example, the dumping of asbestos which has been a bone of contention at the waste management centre

and trying to get out there and have people take responsibility for that now becomes an offence and to have ten penalty units or imprisonment for six months or both so people need to know this. It's all very well saying that we've tabled it and we've passed it but there are flow ons that have immediate repercussions for some members in the community who can be a little dodgy in their actions. So with all due respect we are very easy going with some things but some of these easy going matters are now being curtailed and I think the Members of the public, some of them need to be made aware of just how curtailed things are being made and the repercussions for that, Thank you

MR GARDNER Mr Speaker if I may just respond to those comments of Mrs Jacks'. Mr Speaker as I made quite clear at the last sitting of the House the Summary Offences Bill is basically a revised title for what to a large degree is the current Police Offences Act however it does incorporate some new provision, certainly the dumping of asbestos is one of them, the provisions relating to the treatment of animals is another and I'm quite happy in light of that Mr Speaker to ensure that those new amendments are properly broadcast to the community through if it needs to be a series of press releases just to alert people to the provisions that are contained within that, that are new or above or beyond those of the Police Offences Act as it currently stands

MR CHRISTIAN Thank you Mr Speaker, I just wonder whether the Chief Minister and the Minister for the Environment could clarify one small point here. They both refer to the dumping of asbestos as a summary offence and wouldn't have thought that dumping or disposing of asbestos at the waste management centre would constitute an offence

MRS JACK Mr Speaker, there are methods that many in the building industry are aware of for the correct dumping at the waste management centre, that is, notifying staff, it is to be correctly packaged, nothing loose, everything to be contained, for their benefit as well as those to the public whilst it's coming through town. You don't want those fibres being allowed to be loose and creating a public hazard whilst the same applies when they get it to the waste management centre. There are protocols and it's not just for the workers at the waste management centre it's for community health standards and you can take it there but you notify the supervisor or superintendent of waste management centre first and appropriate actions will be taken when you arrive with that waste on the back of your truck but there are others who don't take a view of community standards health requirements and you find it and it's a danger to all in the community and I do ask people to have consideration for the community as a whole thank you

MR NOBBS You can take it on your wagon, cart, dray or car, but keep to the left hand side of the road as well

SPEAKER Thank you. That's very helpful Mr Nobbs.

MRS JACK Considering the lack of fuel it's a good thing to have

MR GARDNER With drays and the like operating well in Norfolk Island it's more than appropriate

SPEAKER Thank you. Is there further debate at this time? Then I put the question to you Honourable Members, that the Bill be agreed to in principle

QUESTION PUT
AGREED

Thank you. The Bill is agreed to in principle

Thank you. We move to the detail stage. Chief Minister you have foreshadowed an amendment. Maybe if we look at that amendment then look at the balance as a whole

MR GARDNER
circulated to Members

Mr Speaker I move the detail stage amendment as

SPEAKER

Thank you. Any debate in respect of that

MR GARDNER
Mr Speaker it's just in relation to my earlier comments on debate on the bill which basically removes the references to the Liquor Licencing Act 2005 as Members would be aware that was withdrawn at the last sitting. It is now back with the House in a different format. It hasn't passed through the House at this stage so the appropriate reference would be to the legislation that is currently in force which is the Liquor Act 1960 so the proposal is to remove the reference to the Liquor Licencing Act 2005 and for it to read the Liquor Act 1960

SPEAKER

The question is that the amendment be agreed to

QUESTION PUT
AGREED

In terms of the balance of the Bill. Is the balance of the bill agreed in the detail stage

QUESTION PUT
AGREED

Thank you. I now seek a final motion Chief Minister which is that the Bill as amended be agreed

MR GARDNER
agreed to

Mr Speaker, I move that the bill be as amended be

SPEAKER
Bill as amended be agreed to

Thank you Chief Minister. Then I put the question that the

QUESTION PUT
AGREED

The ayes have it thank you, that Bill as amended is agreed to

LIQUOR BILL 2005

Honourable Members, we resume on the question that the Bill be agreed to in principle and Mr Nobbs you have the call to resume in this matter

MR NOBBS
Thank you Mr Speaker. As you will recall the bill was introduced at the last sitting. This is amending the current Liquor Act which was initiated some eight years ago. A series of actions followed in the intervening time which involved considerable public input, considerable input from several Liquor Licensing Boards, Government staff, licensees and then there's been the draft legislation. Earlier in this Legislative Assembly a bill was introduced into the House and was then referred to the Impact of Bills and Subordinate Legislation Committee. The Committee delivered its report and its recommendations were incorporated into a new bill and it is that bill before us today and the earlier bill was withdrawn. There was comment at the last meeting on this bill. It is my intention to request that we not delay any further passing of the Bill. To seek the passing of the bill in its current form. On commencement of the legislation I intend to request the Liquor board to investigate and undertake public consultation and provide a report after the first six months of its operation. I would request as report as to the effectiveness or otherwise of all provisions of the legislation, the Boards recommendations on issues identified in the debate and details of public consultation which was undertaken. The Boards report will then be brought to the House. My concern is that a further delay will

allow the bill to languish yet again as we progress through yet another committee and a period of public consultation. By following the path suggested the legislation will be tested in the fields of battle so to speak and I seek Members support for the passing of the bill

MR GARDNER Mr Speaker I raised a number of issues at the last sitting with regard to this legislation and I'm afraid that I simply cannot accede to the Minister's request. There has been no address in my view of the difficulty that people may have when they've been out fishing and are having a cold beer at the end of watching a game of cricket or whatever it may be down on the oval and not being able to enjoy a beer. There's still no answers to my request at the last sitting to give some consideration to the provision for the regulating the number of licences that are issued although I understand that the Impact of Bills and Subordinate Legislation Committee had considered that matter but for some reason it hadn't been incorporated into the legislation. I appreciate what the Minister is trying to do as far as the public consultation phase is concerned but I really would have to question what the Impact of Bills and Subordinate Legislation Committee did as I understood that, that was the role that they undertook. In saying that certainly I would be comforted if I could get an answer today in relation to the community activities that will be prevented from enjoying a coldie on the beer or the playing field and it would be very interested to understand just who was going to police this and whether the jail is going to be big enough to hold everybody who might be in breach of the legislation. I certainly have a difficulty with that. They are simply amendments and they really do need some urgent address. I'm certainly not prepared to let this go into legislation without that being addressed because I'm not going to legislate which is automatically going to put a lot of very well meaning people in breach of legislation immediately

MR NOBBS Mr Speaker the provisions have been in the legislation for forty five years, those same provisions and I haven't seen the jails full and the like and I can quite see why that Impact of Bills and Subordinate Legislation Committee and the like should let it go through and saying its been there before and that's what I'm saying. If there are particular problems in relation to that or reasons why it should come out, because there are issues of drinking in public places which at times have been somewhat offensive but I don't think anything has been done. There is a need for provision in there in relation to that to clarify it and I can't at this stage. As far as the limitation on licences I can't recall that the Minister actually mentioned that in the last meeting but I haven't seen hansard so I'm not too clear on that but I can't recall. I can recall from memory that within the bill was a requirement to limit the number of licences and I don't know I'll have to ask Mr Christian if he remembers. Did you take it out

MR CHRISTIAN Thank you Mr Speaker, the Committee considered that and there is the ability to set a quota but we made no recommendation as to what the quota might be

MR GARDNER Mr Speaker just in response to Mr Nobbs comments. I really don't want to be party to the continuation of bad law. Those provisions need to be amended. It's absolutely ridiculous. I was at a function on Monday evening this week and we were discussing the legislation that was coming before the House. There were half a dozen adults and the balance were children. It just so happens that I was enjoying a beer Mr Speaker and there were 13 people in attendance. I think that probably put me in breach of it, but as I explained to people I guess the provisions in relation to this type of legislation they were all aghast somewhat at the nonsensical arrangement that seemed to be not only be in force at the moment but to continue. I just simply am opposed to continuing what is bad legislation. Let's get it right before we make it

MR CHRISTIAN Thank you Mr Speaker, I would support the Chief Minister's request that we delay this. I understand the concern about consumption of alcohol in public places. The Committee deliberated about that at length and I think we were given a satisfactory explanation that its covered in the definitions section but it may

be difficult to put the two pieces together so we may need to revisit that however having been a member of the Impact of Bills and Subordinate Legislation Committee I am concerned that the legislation as drafted doesn't reflect all of the things that I thought the committee had recommended. In particular I can recall being very firm in my view that the Liquor Bond should have to hold a permit to sell liquor and yet this piece of legislation that being presented to us today exempts the Administration and the Commonwealth and I don't see why either of those should be exempted from having to hold liquor permits when the situation or occasion arises. I'm fed up with their being laws for the rest of the community and a special set for the Administration. That has to cease and I think we need to revisit this as a matter of urgency

MR GARDNER Mr Speaker Mr Christian has also raised another matter which I raised at the last sitting and that was in relation to the Administration and also the Commonwealth. There may be persons around the table and elsewhere that think we are above the law and should be above the law but when it comes to the appropriate and responsible serving of liquor we are all only human beings and I'm sure that both the Commonwealth and the Administration of Norfolk Island will recognise that and that the application of the legislation should equally apply across the board. I agree with Mr Christian's sentiments

MR BROWN Mr Speaker I cannot disagree with the sentiments expressed by Mr Christian and by the Chief Minister. In terms of whether something is in the present law or not it's one thing to have a particular provision in the existing law. It's a totally different thing to re-enact it. It seems that without a full explanation of the reasons a number of the recommendations of the Impact of Bills and Subordinate Legislation Committee have seen the light of day in the bill. If we are going to ask people to sit on a committee of that nature on the number of occasions on which they sat for the amount of time that was consumed and then without explanation to them ignore significant parts of what they may have recommended we need to rethink whether we are going to bother with an Impact of Bills and Subordinate Legislation Committee. In my view the Members of that committee are unlikely to have been perfect in their decision making because there's only a few of us that are, but if there is a reason to say to the committee, look fellows, I don't quite agree with this, for this reason is one thing, but to just ignore the advice is another. I don't think the end of the world is going to be nigh if we wait for another month. I do think that this bill needs to be gone through in some detail by the Members so that we can ensure that we do understand it. There's too much of a temptation at five past four in the afternoon to try to get things off the paper by just passing them. We shouldn't succumb to that. I think the approximate thing to do once another Member has had the opportunity to speak is to consider the question of adjournment

MRS BOUDAN Thank you Mr Speaker. I have trouble with that section 91. Its headed consumption of liquor in certain public places and goes on with a person shall not consume liquor in a public place and I believe it needs clarification, thank you

MRS JACK Mr Speaker, no I'm all for delaying today and keeping the bill on the notice paper for a further month. I'm not happy that we should be pressed to agree to it and then leave it for another board to try and work through problems. It's up to us to put a clean piece of legislation through, something that works well, that a board then doesn't have to try and sort out all the problems. It's not fair to the board, and certainly it's what we are here for and I'm all for keeping it on the notice paper for at least another month thank you

MR BROWN Mr Speaker there's one other consideration that I believe is important and that is that there are quite a number of liquor licences presently issued. Everyone who holds one of those licences needs to sit down and read this and comment now in the event that they have a difficulty. We do not want to get to the stage of having passed it in whatever form it is when it passes and make no mistake this will pass

QUESTION PUT
AGREED

The ayes have it thank you, that Bill is agreed

CONTRIBUTION TO COST OF MEDICAL EVACUATIONS

SPEAKER Honourable Members we resume debate on the question which has an amendment to it and it is the amendment that is presently in front of us and that is Mrs Boudan's amendment, and Mr Brown you have the call to resume in respect of it

MR BROWN Mr Speaker Thank you. This motion if passed will require me to take certain actions and it may be worthwhile for me to tell Members a little what I will be proposing to do if the motion is passed. We have already increased the Healthcare Levy by \$100 per annum with the intention that, that \$100 go towards the cost of evacuations. But there are some people who don't pay that \$100 and my proposal would be that if we are to pick up this proportion of the cost of evacuations those who are presently holding suspensions from the requirement to be Members of the Healthcare Fund would be required still to pay the \$100 because in the absence of paying that, there would not seem to be any fairness in taking a view that they should be covered without paying. Perhaps more controversial is the situation regarding Social Service beneficiaries. \$100 per year is \$2 per week and it would be my proposal that, that \$100 actually be paid by all of us whether we are a Social Service beneficiary and exempt, or whether we are suspended through having private health insurance or whether we are normal Members of the public. That will not raise a great deal of money. It won't raise anywhere the amount that is required and my proposal to go towards the remainder is that we take action which would have the effect of increasing the price of cigarettes. That action could be either increasing the duty by what would probably be 300 percentage points so that would be a 60% increase in the duty or, and perhaps preferably, increasing a health tax on cigarettes. The benefit of the health tax is it would only be payable upon the sale of the cigarettes whereas the duty is payable at the time of the importation and to simply increase the duty although it might be a solution for a few months, in the long term to simply increase the duty just puts additional burden on the importer in perhaps a fashion that is not totally justified. Mr Speaker I should say that at an earlier time the duty on cigarettes was increased and the community was given an undertaking that the additional funds would be applied towards the cost of health on the island and if that was ever done, it was done on one occasion only, in my recollection Mr Speaker and we have since then failed to honour that undertaking and we need to be very careful of undertakings of that nature. I don't propose to be a party to increasing customs duty for example and then finding that this time next year the Government of the day retains the whole of the increase for general revenue and leaves the difficulty of funding these medical evacuations still sitting there. Mr Speaker the cost of the evacuations needs to be managed. My proposal will be that a firm who presently manage the evacuation decisions and the evacuations themselves for travel insurers in Australia and worldwide be retained and that they not only manage the decision as to whether an evacuation is needed, the appropriate means of that evacuation and the cost of that evacuation, but my proposal will be that they also take an involvement in managing the cost of the treatment once the patient arrives on the mainland. This is a new concept being dealt with in relation to one of our nearby jurisdictions and great hopes are held for very significant reductions in healthcare costs as a result of that management. There are two firms of which I am aware and there may well turn out to be more, but there are two of which I am aware who provide this form of management to travel insurers. If I am only able to find two then I propose to obtain proposals from each of them and if it seems that there are going to be more than two then it may be that we will put the matter out to some form of limited or advertised tender. There will continue to be the difficulty of requiring people who presently hold some form of cover for evacuation costs to claim against that cover first. That might be a person covered by Veterans Affairs. It might be a person covered by their travel insurance, perhaps some people have that form of cover built into their private insurance and we will need to insure by legislation that the Norfolk Island Government becomes the fund of last resort not the initial funder in that type of event. The final issue which will need to be looked at is the situation regarding our visitors where we need to ensure that the work that has

use of our own stretcher on some scheduled flights might be a three month project rather than a three week one

MR T BROWN

Mr Speaker I've got no real problems with what the Minister is proposing. I do have concerns however over cigarettes being the main thing that will be taxed in order to provide the money for this. It seems like we are focusing on one particular segment of the community when lung cancer isn't necessarily something that attracts medical evacuations. I also have reservations over the canceling of the accounts that have been raised recently to individuals and I was wondering if the Minister could tell me if any of those people who have had accounts raised against them have paid any of those accounts off to date

MR BROWN

Mr Speaker each of the families was spoken to in some detail before the charter flights were arranged. I've got no doubt that each of the families fully agreed at the time that they would accept that responsibility however I'm unable to say which if any have paid at this stage. I know that some have declined to pay but because of the fact that this motion has been under consideration I have asked the Legal Services Unit to defer any recovery action in relation to the cost of charters until such time as consideration of the motion has been finalised

MR NOBBS

Thank you. I wrote to the Minister yesterday. He may not have got the letter yet in relation to this, he asked some questions of me. My problem with the scheme or proposal at this stage is that we don't know the fine details and we can't work out the actual cost of it and that's a problem that I have and where we go. What you quoted there, if you look at the smokes and the others and this and that and what have you, it's a significant amount of funding. It would be above the estimates that were put in place previously and that was no \$5000 contribution so I'm a little concerned about it. A couple of things we need to do I believe, the second part if that if we are going to, there wads talk at one stage to put it up to 1000% on cigarettes well this will be 800%, the proposal just put by the Minister and there will be a need for counseling arrangements, a need for quit smoking arrangements because people are going to want to give it away and those are issues that we need to address and I mentioned them in my letter to you but at this stage I personally would like a little bit more detail on the issue and that's what I asked him in the letter, if I could have more of the nitty gritty of the thing before I come to a decision. Mr Speaker the implementation of any decision which the House might make is a different question to making the decision itself. The decision before us today is simply whether or not to agree to the motion either in its proposed amended form or in some other form. The Minister for Finance is quite correct when he says there is likely to be a need to consider the impact of some people deciding that this is the time to give up smoking. I have sought and received advise from the Acting Chief Executive Officer in relation to the potential implementation of what I'm proposing and the Acting Chief Executive Officer has also said that this is likely to cause a number of people to give up smoking. And he has suggested to me that any projections of revenue from the proposed health tax or increase in customs duty need to be considered in light of the fact that a substantial number of people might stop smoking. The Acting Chief Executive Officer has suggested that it would be wise to reduce the projection of additional revenue by one third to take account of that. I have no difficulty with the suggestion by the Minister for Finance that we should have support mechanisms available for those who decide that its time to give the weed away and that is something which may in part required assistance from one of the churches or from one or more of the service clubs and in part assistance in terms of nicotine patches and so forth that might be avail be from the hospital but I just needed to make it clear Mr Speaker that I don't see us as being involved in a decision about implementation today, what I see the motion being is a motion to provide me with direction from the House to go and put together an implementation programme virtually all of which will then require the House to pass legislation for its implementation

SPEAKER

Thank you. Is there further debate at this time? Then I put the question to you Honourable Members, that the amendment be agreed to

QUESTION PUT
AGREED

Thank you. The amendment is agreed to

We now have a motion as amended and if there is no final discussion on that I will put it to you

MR BROWN Mr Speaker I didn't respond to one question which was raised by the Minister for Finance. The Minister said that we don't know what evacuations will cost and unfortunately that's precisely correct. We know what they have historically cost. We know that the cost of each evacuation is increasing. We know that it is very difficult to keep a lid on the number of evacuations and there's various reasons for that. It is necessary as what we are really doing is running self insurance, it is necessary for us to provide enough funds each year to end the year with a pool of money because some years will have more evacuation flights than others and if we found in a particular year that we were \$200,000 short then I would certainly prefer to have that \$200,000 already sitting in a pool rather than be needing to come to the House and say fellows, we need a couple of extra hundred grand to cover evacuations. I would hope in time that there will be sufficient money in that pool for us to consider using part of it towards the cost of a new hospital, just as I would hope that there would be sufficient money built up in reserves in areas such as workers compensation and the Healthcare Fund and other areas to do likewise because all of those areas require the best possible hospital in order to provide the best possible protection to their Members and to their employees and so on so in answer to the Ministers question, what's it going to cost the answer is we don't know. We do know what it has cost historically, we know that, that has fluctuated from year to year. We can reasonably anticipate that it will continue to increase unless we are able to manage it well and we can anticipate that we will need if we are to run it responsibly to have reserves. The final thing that I didn't discuss was the question of insurance. We do have a proposal to insure the risk. Unfortunately proposal has a lot of exclusions. It will certainly be examined in detail but the likelihood at the moment appear to be that the exclusions are so numerous that unless the number of exclusions can be reduced and the provider of the quote is going to go back to seek a reduction but there's no guarantee that, that will occur but unless we can expand the extent of the coverage, it is likely that it will not be worth the cost of insurance and there's one very good reason for that. That is that insurance is not a charity. An insurer is going to look at the past history, is going to look at the potential for the future. He's going to say well I need to recover the whole of the potential cost of the future. I need to also establish reasonable reserves to cover me if I have just one bad year and I need to make a decent profit because there are lots of people on the way through the chain who are looking for profits. So it would not be unusual if we determined that the most appropriate course was to bear the risk ourselves but to ensure that we recover sufficient from the mechanisms that I spoke of to in effect be receiving adequate premiums to ourselves cover the risk. Thank you

MR T BROWN Mr Speaker whilst I agree with most of the motion I still can't vote for it for the cost it will have on the island with respect to paying for those accounts which have already been rendered but I'm pretty sure that this will get up today so that won't make much difference, my voting against it. Thank you Mr Speaker

MR NOBBS I hear what Mr Tim Brown has got to say but I thought until a scheme came in we were still operating under the arrangements that we're in place and in my view that was a free ride but I don't know. What's not included in here and what I'm a little concerned about, the detail, we need to get something in place and get it in place very quickly for the future and the \$100 that's sitting in the Healthcare Fund has to come out so I'll support the motion but I will wait with baited breath and interest on the detail that we've heard some of today

MR GARDNER Mr Speaker it is important to emphasise the fact that this is merely a motion. It doesn't actually say that somebody will be let off the fee or charge or that there will be an air ambulance service or there will be anything else it merely seeks to have a proposal brought to the House for its consideration and that will address all the detail I would

imagine and then we are free at that time to make a decision as to whether it should be implemented or not and obviously spilling from that will be necessary amendments to legislation as Mr Nobbs has just alluded to in relation to the \$100 per annum fee that's been picked up with the increase in the Healthcare levy and other arrangements for the operation of whatever scheme comes into being which is technically an insurance scheme, a medical evacuation scheme combined and I certainly have no issue with that. I would be more than pleased to have a look at a solid and sound proposal and I think the Minister has obviously done a great deal of work in recent weeks and months in relation to that and I look forward to giving consideration to the proposal

SPEAKER Thank you Chief Minister. The question is that the motion as amended be agreed to

QUESTION PUT
AGREED

MR T BROWN NO

The ayes have it thank you, that motion is agreed

And with that matter concluded Honourable Members, we have concluded the Orders of the Day

FIXING OF NEXT SITTING DAY

MRS BOUDAN Thank you Mr Speaker. I move that the House at its rising adjourn until Wednesday 16 November 2005 at 10 am

SPEAKER Thank you Mrs Boudan. Any further debate Honourable Members. There being no further debate I put the question that the motion be agreed to

QUESTION PUT
AGREED

I think the Ayes have it. We are agreed on that matter and so we move to adjournment

ADJOURNMENT

MR T BROWN Thank you Mr Speaker I move that the House do now adjourn

SPEAKER Thank you Mr Tim Brown. The question is that the House do now adjourn. Any adjournment debate

MR GARDNER Mr Speaker just briefly, to wish all traveling to Tahiti over the next few days from Norfolk Island to join the people of Tahiti and other nations from elsewhere in the Pacific their celebrations of the 217th anniversary of the Mutiny on the bounty we will be represented well at the function both at a level of the Legislative Assembly and also in the community and I certainly wish all those persons well and a safe trip and a safe return and also encourage them to do their level best to encourage reciprocal participating by those people attending from all over the Pacific for our Sesquicentenary Celebrations for 2006 in Norfolk Island and good luck to all and sundry

MEMBERS Hear, hear

SPEAKER Thank you Chief Minister. Thank you Honourable Members. The question is that the House do now adjourn. Any further debate. Then I put the question

QUESTION
AGREED

The motion is agreed to. Honourable Members this House stands adjourned until Wednesday 16 November 2005 at 10 o'clock in the morning

