

Resumption

Resumption of Sitting from 10 April 1996, the Deputy Speaker taking the Chair

DEPUTY SPEAKER Thank you Honourable Members. I ask if there are any Condolences this morning

Condolences

MR BUFFETT Thank you Madam Deputy Speaker. It is with deep regret that this House records the following deaths: Sven Stuart Karl, Elveria Edwards and Lois Crombie

Sven Stuart Karl was the twenty year old son of Rod and Jill Karl. He was born on Norfolk Island in November 1975 whilst his parents were residents here some little time ago now. Svan attended school in the Island and then went to New Zealand when his mother returned there to gain specialised medical attention for him. From a very early age he had suffered a debilitating illness which plagued him until his untimely passing in Auckland on Saturday, the 30th March. To Jill and his sister Claudine, to Rod, to their family and friends this House extends its deepest sympathy

Elveria Edwards, affectionately known as Bussie, suffered a stroke here on the Island on the 21st March. She was flown out to New Zealand on Easter Sunday for treatment, but unfortunately passed away on Tuesday, 9th April, almost ten years after Bert, her husband of fiftysix years. Bussie was born on Norfolk Island in 1911, one of five children of Isaac and Sarah Christian. Her sister Nella survives her. Two sisters and two brothers had predeceased her. Bussie had seven children, six sons and one daughter, three sons of whom predeceased her. She had twentyfive grandchildren and twelve great grandchildren. Bussie worked at a number of tasks in her lifetime. She was housekeeper at Government House for a number of years. She worked in a number of hotels on Norfolk Island but most of her life was spent at home. She was a reknowned cook and took great pleasure when others enjoyed her cooking. This was all done on her wood stove. Bussie loved to travel, especially around New Zealand and gained much enjoyment from Housie. With her high standard of cooking, her hospitality and her generosity, Bussie made a significant contribution to tourism on Norfolk Island. She also was a regular contributor to Church Stalls, School and Sport Fundraising, to local benefits and the Sunshine Club. She will be sadly missed and this House extends its deepest sympathy to Bill and Jacquie, John and Fran, Jimmy, Ruth and Don, Paul and Clare and to their families, to Nella, and to her many friends

Lois Crombie passed away at the Norfolk Island Hospital on Monday of this week. Lois was born in Christchurch in 1928 to Emily and Stan Leslie. Her early schooling took place at Barrytown and she attended Linewood High School. Lois married in her late teens and she had three children Ken, Bill and Jennie. Lois met her second husband Don in 1959 and gained four stepchildren to add to her own family. Lois and Don were soon to commence their life of wandering, which took them around Australia, to Papua New Guinea and eventually, Norfolk Island. In all Lois was to spend nearly twentyfive years on Norfolk Island and became a valued and respected member of our community. Subsequent to Don's death in 1982 Lois met Alan and they were married in 1985 and shared eleven years together. With her own children and grandchildren spread throughout Australia and New Zealand Lois became a friend and support to many people here on Norfolk. For a short period Lois was a member of the Norfolk Island Bowling Club, but her long term commitment was to the St Barnabas Chapel Choir. To her husband Alan, to Ken, Bill and Jennie, to Shane, Cheryl, Pauline and Gary, to their families and their friends this House extends its deepest sympathy.

DEPUTY SPEAKER Thank you Mr Buffett. Honourable Members, as a mark of respect to the memory of the deceased, I would ask that all Members stand in their places for a period of silence. Thank you Honourable Members

MR KING Thank you Madam Deputy Speaker. I seek leave for the Minister for Health and Education Mrs Lozzi-Cuthbertson who is absent from this mornings sitting of the House.

DEPUTY SPEAKER Leave is granted. Thank you. Mr Buffet would you care to resume the chair?

MR SPEAKER Thank you.

NOTICES

MR SPEAKER Honourable Members we commence at Notice No 2. This being a continued sitting from April 10th.

NO 2 - LAND TITLES BILL 1996

MR CHRISTIAN Thank you Mr Speaker. I present the Land Title Bill 1996 and move that the Bill be agreed to in principal.

MR SPEAKER Question is that the Bill be agreed to in principal.

MR CHRISTIAN Mr Speaker, the Land Titles Bill 1996 is the first Bill of seven that I will introduce into the Assembly this morning. Accordingly, it is appropriate for me to give a short summary of the package of legislation for the benefit of other members and for those listening to the broadcast. This package of land legislation can be divided into three parts. The first is the implementation of a guaranteed system of title to land, both privately owned and held or leased by the Crown. The second is a new regime of Land Use Management which will centre on a new Planning Act as the "umbrella" legislation over new legislation dealing with Building, Roads, Subdivisions and Heritage. The third element of the package is new and modernised legislation dealing with Crown Lands. I now turn to the provisions of this legislation, the Land Titles Bill 1996. The purpose of this Bill is to introduce a comprehensive form of guaranteed land title for both freehold and Crown leasehold land on Norfolk Island. The Bill also provides for the establishment of a new position, to be called the Registrar of Titles, who will be responsible within the Public Service for the administration of the Land Registry. The Bill provides for title to be converted from the existing registration under the Conveyancing Act 1913 and given guaranteed status under the New Act. Conversion of title will require that an application be made and for the Registrar of Titles to examine the supporting documentation before any new title is issued. Where there is some doubt about the status of the title, the Registrar may issue a Qualified Certificate of Title. This Qualified Certificate of Title will be accompanied by a Registrar's Minute which will detail the matters which have prevented the issue of unconditional title. The Registrar's Minute will form part of the Title Register and be produced at any time the title is searched. The removal of the qualified status can be achieved at any time by resolving the matters identified in the Registrar's Minute. In addition, the Registrar has a discretion to remove the qualified status of the title where he is satisfied that the resolution of the specified matters has become unnecessary. In any event, the removal of the qualified status will occur 12 years after the title was registered. The Bill provides that Qualified Title may be dealt with under the legislation as if there was no impediment to the title. Mr Speaker, an important feature of this Bill is that there will be no compulsion placed on existing landowners to convert to the new form of guaranteed title other than where a dealing in the land is proposed. In this case the land must be brought under the new system before the transaction can occur. The principal effect of the Bill is to give the Lands Register paramount status. Registration of ownership as shown on the Register creates indefeasibility of title other than where fraud exists in the transaction that gave rise to the registration. The Bill provides that the Administration indemnifies any person who is deprived of an interest or who suffers loss or damage where there is incorrect registration, an error by the Registrar, the Register is tampered with or there is a breach of duty by the Registrar of Titles. Mr Speaker, this Bill brings a number of advantages other than guaranteed land titles. Subsequent dealings in land can be more efficiently achieved and at a minimum cost. Title can be amalgamated through action by the Registrar where the separate parcels have a common boundary. Mortgages may be registered without, as is the present unsatisfactory situation, a person having to relinquish ownership. Caveats placed on title will lapse unless the person lodging the caveat commences an action in the Supreme Court within 14 days. A person lodging a caveat without reasonable cause may be liable to compensate anyone whose interests are damaged as a result of the caveat. Finally, Crown leaseholds are registrable under the Bill and subsequent dealings with this land are subject to the same provisions as freehold land. Mr Speaker, this legislation has been specifically drafted to take account of Norfolk Island's unique situation and in particular the special significance of land to Norfolk Islanders of Pitcairn descent. Accordingly, as well as the system being non-compulsory except on dealings in land, new guaranteed titles will refer back to the original Crown grant and the original documents relating to titles will be preserved as the essential links in the chain of title. I commend this Bill to the House.

MR SPEAKER Thank you Mr Christian. Have you tabled the explanatory memorandum?

MR CHRISTIAN I will do so.

MR SPEAKER Thank you. Debate Honourable members.

MR KING Thank you very much. Just some very brief words. Mr Christian touched on the general Land package, without I might say emphasising too much the significance and the comprehensive nature of it. I just wanted to make some very brief comments on that and I explain why I see it as being particularly significant. It is significant because he touches on an area of land which is the final function of responsibility which is retained by the Commonwealth and one which is thought to be ultimately transferred to the Norfolk Island Government and this provides a satisfactory legislative frame work or legislative framework which would be satisfactory to the Commonwealth I'm sure and will move us a little bit closer towards assuming that responsibility for land so in that respect it is significant. It's most significant and comprehensive because it is probably the biggest package of legislative reform which is been brought before the Legislative Assembly during the history of self government, and that's worth remarking upon. It addresses a whole host of problems which we have all seen, those of us that have been around the public administrative area for a number of years. These problems that have been associated with dealing with and management with land. It introduces some innovations and puts Norfolk Island forward as a pace setter in certain areas, particularly in relation to caveats on properties. It replaces some of the ad hoc arrangements which have been in place for a number of years regarding land dealings. I make the comment just in closing also that there is significant room here for the development of policy to attach to these pieces of legislation and significant room to develop a thee regime which is going to ensure there is not a scale of avoidance which is unsatisfactory to us as has been the case demonstrated under the Conveyancing Act as it presently stands. I commend Mr Christian for his work and I commend the team that he has engaged to do it. It's a mammoth task and we wouldn't have been able to implement this and carry on with our ordinary functions unless we had put together the task force which has helped Mr Christian develop this package. Thank you.

MR SPEAKER Further debate. No further debate Honourable Members.

MR CHRISTIAN Mr Speaker, just before I move the adjournment I think I should say that it's intended that all of this Legislation will lie on the table for two months and I urge interested members of the public to contact me if they have any queries or Toon Buffett down at Kingston or Mr Ray Gallagher if he is available during his frequent visits to the Island.

MR SPEAKER That is the Package of 7 pieces of legislation that you are to introduce this morning. Thank you Mr Christian.

MR CHRISTIAN Mr Speaker I move that the debate be adjourned and the resumption of debate made an order of the day for the next sitting.

MR SPEAKER QUESTION PUT
AGREED

The ayes have it thank you.

NO 3 - THE PLANNING BILL 1996

MR CHRISTIAN Mr Speaker I present the Planning Bill 1996 and move that the Bill be agreed to in principal. Mr Speaker, the purpose of this Bill is to provide for a Norfolk Island Plan, and, in the context of that plan, to provide a mechanism for the approval of planning activities. Clause 3 of the Bill provides that the objects of the Bill are -

- . to promote the conservation of the natural environment and landscape beauty of Norfolk Island;
- . to promote the conservation of the heritage of Norfolk Island;
- . to preserve the way of life and the quality of life of the people of Norfolk Island;
- . to ensure that human health and safety, and the amenity of Norfolk Island, are promoted by activities subject to planning approval and;
- . to provide standard planning approval procedures.

The Norfolk Island Plan to be prepared under the Bill to be prepared under the Bill will be designed to promote these objects by indicating planning objectives, nature conservation values and development standards for Norfolk Island either generally or for a specific area. This Planning Bill will be the key piece of legislation for the process of obtaining approval for carrying out activities such as building works, subdivision proposals, road opening and closure and activities affecting the heritage of Norfolk Island. Even though these activities will be regulated under different Acts, they will all be planning activities and come under the umbrella of this Bill and the regime it establishes. Under the Bill it will be an offence to carry out a planning activity without planning approval given in relation to that activity. Clause 15 lists the activities that are planning activities for the purposes of the Bill. These are :

- . a building activity under the new Building Act 1996;
- . building use under the Building Act 1996;
- . sewerage, drainage and water activity under the new Public Health Act 1996;
- . a subdivision proposal under the new Subdivision Act 1996;
- . a road project under the new Roads Act 1996;
- . a heritage activity under the Heritage Act 1996;
- . another activity specified in the schedule to this Bill.

The Bill provides for three categories of application, depending on the type of planning activity contemplated. A category 1 application will be determined by the executive member on the basis of material submitted with the application. A category 2 application will require that a summary of the proposed activity is published in the Gazette, and public comment invited. This application is then referred to the Planning Board established by this Bill who will consider it and make a recommendation to the executive member. A category 3 application requires that, in addition to gazettal and an invitation for public comment, a public meeting must be held. The executive member then determines the application on the basis of submissions received and the recommendation of the Board following the public meeting. Decisions of the executive member to refuse a planning application or to approve the application subject to conditions will be subject to review by the Administrative Review Tribunal, the legislation for which was introduced by Mrs Cuthbertson last Wednesday. The Bill provides that the executive member can direct that an environmental impact statement be carried out in relation to a planning application and in that direction can specify what the statement is to include and at whose expense it is to be prepared. The Bill also provides a mechanism for the Supreme Court to order that any unapproved planning activity be stopped and that specified action to reverse the effects of the activity be undertaken. If the person fails to comply with such an order of the Court, the executive member may cause that works necessary to comply with the order be carried out and the cost of those works will be a debt due to the Administration and recoverable in Court. I commend this major new Bill to the House.

MR SPEAKER Thank you Mr Christian. Explanatory memorandum?

MR CHRISTIAN Tabled.

MR SPEAKER Debate Honourable Members.

MRS SAMPSON Thank you Mr Speaker. I also commend Mr Christian for introducing these Bills and for those people outside listening we members have had a benefit of Mr Gallagher and his teams lucid and I think explanations and I don't feel that there were any objections. He covered things generally and specifically and as we go through these Bills if other members aren't saying much it would appear that we agree with them. Thank you .

MR SPEAKER Further debate Honourable Members? No further debate.

MR CHRISTIAN I move that the debate be adjourned and the resumption of the debate be made an order of the day for the next sitting.

MR SPEAKER QUESTION PUT
AGREED

The ayes have it thank you.

NO 4 - BUILDING BILL 1996

MR CHRISTIAN Mr Speaker I present the Building Bill 1996 and move that

the Bill be agreed to in principal. Mr Speaker, the object of this Bill is to provide, in association with the new Planning Act, for the regulation of building activity, building use and for related purposes. The Bill provides that planning approval under the Planning Act will be required for the construction, alteration, demolition or change of use of a structure, but is not required for minor alterations or internal painting or certain other things set out in the schedule to the Bill. The Bill also provides for a new Planning (Building) Code which will prescribe standards for construction, alterations, external design and siting, building uses and procedural requirements. The Code and variations to the Code will be determined by the executive member and, in doing this, the executive member may adopt all or part of the Building Code of Australia published by the Australian Building Codes Board. This will allow for local conditions on Norfolk Island such as availability of certain material or expertise to be taken into account by a variation of the Australian Code. The executive member must publish a gazette notice advising the making of the Code or any variation. In addition a copy must freely be available for inspection and copies available for purchase. The Building Bill, with the new Planning Act, will replace the current 1967 Act and the Building Board will be replaced by the new Planning Board. I commend the Bill to the House.

MR SPEAKER Thank you. The explanatory memorandum.

MR CHRISTIAN Tabled.

MR SPEAKER Any further debate?

MR CHRISTIAN I move that the debate be adjourned and the resumption of the debate be made an order of the day for the next sitting.

MR SPEAKER QUESTION PUT
AGREED

The ayes have it thank you.

NO 5 - ROADS BILL 1996

MR CHRISTIAN Thank you Mr Speaker. I present the Roads Bill 1996 and move that the Bill be agreed to in principal. The object of the Roads Bill is to provide for a regime for the opening and closing of public roads and for related matters. The criteria relating to the opening and closing of a road and the procedures for the approval of a road project will be set out in the Planning (Public Roads) Code to be made under the Act. The opening or closing of a public road will be gazetted. Applications for the opening or closing of a public road will be dealt with under the new Planning Act. For the purposes of that Act, in-principle planning approval will be a category 2 application, while a final planning approval will be a category 1 application, both of which must be in accordance with the Code.

Under the Bill, the Administrator will be responsible for approving or refusing applications for road projects. Consideration of a planning application will include such matters as the objectives of the Roads Code, present and likely future needs in the area, minimum standards specified in the Code and a report by the Surveyor-General. Under the Bill there will be a transitional period during which time the Administrator may dedicate land that was an old road or old service area as a public road. When such a dedication is made it will have the effect of extinguishing private ownership and interests that existed immediately prior to the dedication. However, before the dedication of such land, the executive member will gazette the details of the proposed dedication and invite community members to lodge submissions. A person whose interest in land is extinguished through the dedication of land as a public road is entitled to be paid compensation for the loss or reduction of the interest. A claimant for compensation will be entitled to apply to the Administrative Review Tribunal for a review of a decision taken in regard to the rejection of, or the amount of, a claim. Mr Speaker, this Bill will make quite clear which roads in Norfolk Island are public roads, and therefore to be maintained by the Administration, and which are private access ways. It will streamline procedures for declarations of public roads and ensure standards of sealing, guttering and kerbing, as applicable in each case, are met. I commend the Bill to the House.

MR SPEAKER Debate Honourable Members? No further debate. Your explanatory memorandum again please Mr Christian?

MR CHRISTIAN Tabled. Mr Speaker I move that the debate be adjourned and the resumption of the debate be made an order of the day for the next sitting.

Warwick Smith, that this transfer will take place. I thank the House.

MR SPEAKER Thank you. Any further debate on this particular Bill Honourable Members. No further debate?

MR CHRISTIAN I move that the debate be adjourned and the resumption debate be made an order of the day for the next sitting.

MR SPEAKER QUESTION PUT
AGREED

The ayes have it thank you.

MR SPEAKER As Mr Christian has said that concludes introduction of the 7 pieces of legislation in the Land Package, we therefore move to the next sitting day Honourable Members.

FIXING OF THE NEXT SITTING DAY

MR BATES Thank you Mr Speaker. I move that the House at its rising adjourn until Wednesday 15th May 1996 at 10 am

MR SPEAKER Thank you Mr Bates. I put the question that the motion be agreed

QUESTION PUT
AGREED

The ayes have it. We agree that we meet next on Wednesday 15th May 1996.

ADJOURNMENT

MR CHRISTIAN Mr Speaker I move that the House do now adjourn

MR SPEAKER The question is that the House do now adjourn. Any participation in the adjournment debate?

MR SPEAKER Thank you. Any further participation? No further participation and I therefore put the question that that motion be agreed to that the House do now adjourn

QUESTION PUT
AGREED

Therefore on that basis Honourable Members this House will stand adjourned until Wednesday 15th May 1996 at 10.00 am.

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