

## **PRAYER**

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

Honourable Members if you would like to remove your coats please feel free to do that

## **LEAVE OF ABSENCE**

If I firstly say that the Chief Minister is absent and leave is sought on his behalf. Is leave granted? Leave is granted thank you

## **SUSPENSION OF STANDING ORDERS**

MR GARDNER Thank you Mr Deputy Speaker I move that so much of Standing Orders be suspended as would prevent the House from dealing only with the matter set out on the Programme

DEPUTY SPEAKER Honourable Members, this requires the support of six Members. Would Members indicate their support of this matter please by rising in their places. That motion is carried thank you

## **REFERENDUM ACT 1964 - SPEAKER TO DIRECT A REFERENDUM ON THE COMMONWEALTH'S PROPOSAL TO INTRODUCE LEGISLATION IN RELATION TO VOTING AND ELECTION RIGHTS OF AUSTRALIAN CITIZENS FOR THE NORFOLK ISLAND LEGISLATIVE ASSEMBLY**

MR GARDNER Thank you Mr Deputy Speaker. I move that this House recommends to the Speaker, under the provisions of the Referendum Act 1964, that he direct a referendum on the following question:

Do you agree with the Federal Government's proposal to alter the Norfolk Island Act so that - 1) people who have been ordinarily resident in the Island for 6 (six) months will in future be entitled to enroll on the electoral roll for Legislative Assembly elections; and  
2) Australian citizenship will in future be required as a qualification to be elected to the Assembly, and as a qualification for people who in future apply for enrollment on the electoral roll for Assembly elections

I guess the biggest question that is being asked in the community at the moment is why the need for another referendum. Firstly Mr Deputy Speaker, as my colleagues are aware, we did hold a referendum on a very general nature in very general terms very much related to the purpose of this referendum and the questions that are before us. There was an overwhelming support from this community to the tune of around about 80% in favour of the Federal Government not interfering in our affairs. They were basically the words of our referendum. They were somewhat mocked by the Commonwealth and even by the Prime Minister himself when he agreed that he would have been supportive of that referendum at that time. What we are trying to do here today Mr Deputy Speaker is to be a little bit more specific and to try and seek the support of the community in fending off this attack on what I believe to be our rights as the people of Norfolk Island in relation to the electoral matters. This is a matter that suited the people

of Norfolk Island well to date, something that we do not wish to change, we do not wish to see be changed and I guess in just finishing up and I will be brief on this, I believe that if this Bill is agreed to in the Senate and passes through and becomes law within 28 days following royal assent that these proposed changes will erode further the voice of the people of Norfolk Island in determining their future. Thank you Mr Deputy Speaker

**MR ION ROBINSON** Thank you Mr Deputy Speaker. The Commonwealth Government are not concerned about a “Foreign Agent” infiltrating the Legislative Assembly of Norfolk Island. Apart from preferring the legislature of Norfolk Island to be a bunch of obsequious yes men and women, I don’t think they give a damn. The perfidy of the Commonwealth Government runs much deeper than that. This Norfolk Island Amendment Bill which is to go before the Senate in Canberra is about and I quote a former Minister for Territories, “...strengthening the Australian Identity of the External Territories...”. At the same time that various Territories Ministers were telling us that they supported self government for Norfolk Island the whole function or reason for being of the Territories Office, is and was “...to enhance Australia’s sovereignty in the external territories...”. You may ask how do I know that? I know that because that is what is written down in black on white in the Australian Government Directories from 1973 till 1976. Those words - ‘...to enhance Australia’s sovereignty in the external territories...’ are what the Norfolk Island Amendment Bill are all about, no more and no less. Mr Deputy Speaker I would like to table the two pages from the Commonwealth Government Directory of February 1973 and the page which describes the function of the Territories Office, Thank you

**MR NOBBS** Thank you Mr Deputy Speaker. The proposal put by Canberra to all of the Norfolk Act in relation to electoral issues will change the whole structure which underpins the Norfolk Island as we know it and I believe, wish to retain as a basis for our future. In fact the basis of what we take into the next century. I spoke at the last meeting on the time frame in which we will see a dramatic change and it won’t be long. My prediction was, if this proposal by Canberra is accepted we will see a dramatic change in about four years, that is, say after two elections. These are the possibilities. For someone with my feeling Mr Deputy Speaker I find this quite abhorrent. We must fight this dreadful attack on our lifestyle. I sat and listened in disbelief when Members were told by the Prime Minister of Australia on his recent visit that in effect our previous referendum was a put up job. This is the same leader, and I’ve been a supporter of his party a member and a candidate of an associate party, but this same Prime Minister had the audacity to tell us to ignore the results of our referendum of some 80% yet this is the same Prime Minister who is elected, or his party was on a vote of less than 50% support of the Australian people yet he says he has been given a mandate without question to bring in his policies like the GST. Mr Deputy Speaker a mandate from the electorate is apparently like beauty - it’s in the eyes of the beholder. If these are the rules by our Canberra masters we play by them. If they want a more definitive direction from the people lets give it to them. I support the proposal to put the questions to the people but I really question why. Don’t they believe us. Why should they. We’re not a big problem. We never seek no great handout. The actual costs accredited to Norfolk Island are minimal, mainly to do with maintaining the Department of Territories that Ric spoke about and the Administrator’s office. I’m sorry to say but we can do without both if required. Mr Deputy Speaker this is a much bigger issue.

**DEPUTY SPEAKER** Mr Nobbs if I could just point out to you that there are Standing Orders which indicate that you should respect the Office of the Administrator in your debate

**MR NOBBS** I’ll accept that. I believe as your representatives we would be irresponsible if we did not put the issue back to the people. The Prime Minister received his mandate from the people. Less than 50% was fine by him. What better way of expressing our feelings than a 80% vote. In looking behind the rhetoric I wonder what it’s all about. There was some limp wristed excuse that we are an integral part of Australia. That may be fine but the belief in such a premise allows for the

introduction of measures which will unfortunately, I'm afraid by design, change dramatically the structure and social fabric of the Island and that is unacceptable. Sure in Australia you can move relatively freely from State to State or State to Territory or Territory to State. There is a virtual automatic registration for voting. Mr Deputy Speaker this is fine when you look at the Australian structure. For instance a major source of the Government funding is income tax. The funds are collected by the Commonwealth and are distributed to the States and Territories under a system which also includes population statistics. If a tax payer moves from Sydney to say Darwin it could be said that the Northern Territory will gain an advantage, in other words the tax payer comes to the NT with tax credit. This is without even considering payment of any State type taxes. Australian tax regime does not apply to Norfolk Island as it does to the other Australian States and Territories. Consequently an Australian tax payer arriving on Norfolk Island does not bring any tax credits. They do not even bring with them the right to use their Medicare card so why should we be asked to swallow such a shallow and childish argument that we must give an Australian once they have been on Norfolk for six months, the right to vote. Mr Deputy Speaker even on of the many inquiries into Norfolk Island, the Islands in the Sun, Legal Regimes says on page 149 "...the right to vote in elections for the Norfolk Island Legislative Assembly and referendum is currently available to persons resident in Norfolk Island for a period of three years or two years and six months in the preceding three years who satisfy the Administrator that they intend to reside permanently on the Island. The conclusions for this section in relationship to citizenship was that the committee was satisfied that the current residency provisions should remain unchanged however the committee did consider that the question of Australia citizenship, I'll give them that. Surely if Canberra is so interested in assuring Australian citizens have a fair go they would be concerned with a far more important issue such as the ability of those visiting Norfolk Island with Medicare cards to avail themselves of that service whilst on Norfolk Island without having the present arrangement where they must whilst visiting take out health insurance whilst also paying into the Medicare system. It also applies and there are dangers that Australian pensioners visiting Norfolk Island lose their pension for the time that they are on Norfolk Island and I could go on, on other issues such as those. Mr Deputy Speaker we have a close relationship with places other than Australia over the years. Our people served in the Commonwealth forces under the flags of Australia, New Zealand and England in two wars, we have a close economic social and blood relationship with New Zealand, in fact, if anything epitomise Australia and New Zealand relationship, Norfolk Island does. Why the need to change? It's really funny that Canberra quite blatantly says you have to be Australian, an Australian citizen to vote or stand, which means by birth after some specific qualifying time period spent in Australia yet on the other hand they say no to our prescribed period of time before an initial enrollment of 900 days. I would ask the voters to bring the proposed question home with a resounding no vote. There is absolutely no advantage for the Island to support the proposals as put by Canberra. If there was I would support them to the hilt but believe me there are no advantages to Norfolk Island in the proposal as put by Canberra. Quite the opposite. Thank you Mr Deputy Speaker

MR ROBERTSON Thank you Mr Deputy Speaker. The changes to legislation which are before us which has been put onto us by the Australian Cabinet will definitely have an affect. Now the reasons for this have been well and truly documented in many documents over many years and in fact the report that Ron just referred to was done a few years ago and it goes even before that and each time there's been a suggestion that the people should become Australian Citizens to stand for election or that the people ordinarily resident in the Island should be shortened. It's been opposed each time and the opposition has been for a very good reason and as I said those reasons have been documented over the years and in fact that documentation and the opposition to the proposed amendments have been tabled in this House, have been discussed with many areas of the people of Norfolk Island and have been discussed with different Ministers from the Federal Government also over a period of time and in fact, our Chief Minister will be sitting in consultation with Hon Ian Macdonald to

discuss some of these issues that have been raised here today. What that outcome will be, I'm not sure but however, I fully endorse this referendum question with the object being of course is that whilst we've said over and over again that we've opposed any direction that's been taken by the Australian Government to change a schedule 2 matter there is no doubt in my mind that once again we will have a resounding no from the people of Norfolk Island and maybe perhaps as the question is posed directly on what is being proposed by the Australian Government for Norfolk Island I don't feel that the Australian Government will be able to give this one the flick as they have done in the past. I propose to commend this Thank you Mr Deputy Speaker

MR BATES Thank you Mr Deputy Speaker. I intend to support the motion. I hope that if the motion passes we can hold the referendum as the same time as the bi election to save some of the costs involved and also some of the inconvenience to people who have to go along and cast their vote whether interested or not. It's the principal I support. I think there are two principles involved and one is that the voice of the people is always important to me, the other one is I believe this is a schedule 2 matter and a matter that should rightly be solved in the hands of the Norfolk Island Assembly. I have to be frank and say that I don't entirely agree with the substance of the motion. There are issues in there that I think we need to address. I think they should be addressed by us though rather than by the Commonwealth. I think there are some anomalies with local Norfolk Island people returning home and having to wait a long time to get on the roll, on the other hand I think that six months is far too short for a temporary entry permit holder who really doesn't know what the Island is about and probably is only going to stay for three years and vote and have no idea what the result of their voting is going to cause because they are no longer here and have no great interest in the future. Also I have to be quite frank that part 2 of this question, I believe that only Australian and New Zealand citizens should be able to stand for this Assembly. I'm opposed to foreign citizenship qualifications for Members of the Assembly. I have no problem with New Zealanders because a large proportion of those have been associated with this Island for longer than I can remember but there are some issues there that I think we need to address. I find it a little bit ironic I guess if we were expecting a yes vote for this referendum we wouldn't be having it but I'm pretty confident that we'll get a no vote so that's the whole reason behind it I guess, but I will support it on principal

DEPUTY SPEAKER Further debate Honourable Members. No further debate from the floor at this time. Mr Acting Deputy Speaker would you be kind enough to take the chair for the moment please

MR BUFFETT Thank you Mr Acting Deputy Speaker. What we really have before us in the Assembly this afternoon is a proposal to have a referendum. That's been clearly stated already. To ask the community whether they agree a proposal initiated by the Australian Government to alter the Norfolk Island Act. The question proposed to us has already been read out but I'll just read it again to give emphasis to what I'm on about. The question proposed to be asked is -  
Do you agree with the Federal Government's proposal to alter the Norfolk Island Act so that - 1) people who have been ordinarily resident in the Island for 6 (six) months will in future be entitled to enroll on the electoral roll for Legislative Assembly elections; and  
2) Australian citizenship will in future be required as a qualification to be elected to the Assembly, and as a qualification for people who in future apply for enrollment on the electoral roll for Legislative Assembly elections

Mr Acting Deputy Speaker you will recognise of course that the Norfolk Island Act is the closest we have to a Norfolk Island Constitution. The Federal Government's proposal is an intention to amend

therefore our Constitution without our approval, indeed it's stronger than that. It's against the expressed wishes of the Norfolk Island public. Some components of this proposal encompassed in what I've just read, some of these proposals are not new. Some Members have already talked about that. For example. The demand for Australian citizenship as a prerequisite to electoral enrollment and also for candidature for election to the Assembly. Last time it was raised by Alex Somlyay. He was then the Minister for Territories and it was raised in the early part of last year, 1998 and we had a referendum then. We had a referendum on the general question. It was conducted on the 26<sup>th</sup> August. The 1998 referendum by way of preamble explained that the Australian Government had recently indicated its intention to bring about changes to Norfolk Island electoral process. Given this situation this question asks, do you feel that it is appropriate that the Australian Government dictates the electoral process on Norfolk Island? Now the result of that referendum in Norfolk Island was 78.4% of the voters said NO. Absolutely NO. In other words. Hands off. Leave us alone. Minister Somlyay when he came to the Island in August, just before this referendum was conducted said that we should wait and see what the outcome of that referendum was and when we had it with that result we advised him, the Federal Minister about the result. We never ever received the courtesy of a response I might say Mr Acting Deputy Speaker but we naturally assumed given his earlier interest that he would heed the voice of the Norfolk Island people at referendum. I'm sure it would be unthinkable for him to do otherwise in his own electorate environment but the matter didn't end there. His successor who is Senator Ian Macdonald continued to gnaw away on this matter and in January of this year renewed the proposal and in February of 1999 he sent a draft Bill to the Australian Parliament and he sent a copy here so we have the exact words of this Bill and the Bill was to amend the Norfolk Island Act. Our Constitution Mr Acting Deputy Speaker, in very specific terms. Now the Members of this Legislature continued to oppose the changes, we had the brief from the Norfolk Island community, 78.4% saying no, leave us alone. But what we want to do now that we have continued to oppose the changes is to also have the attitude of the Norfolk Island community at referendum on the specific changes that are proposed. Just to again repeat it. Before, we didn't have the specific words of their proposal. We had a general proposition and we had a referendum on the generalities of that proposition. Now Mr Acting Deputy Speaker we have the exact words and it is upon these exact words that we are now consulting the community upon. Why? It's already been answered why. Why? Because the Commonwealth was rather offhand on that more general question put at referendum and implied it had little weight. Informally implied I've got to say. Not in writing but implied by some quite senior Members of the Australian Government including the Prime Minister when he came here a couple of months ago now. He again implied informally not in writing because as I've said earlier, they haven't even had the courtesy to give us a written reply in respect of the outcome of that 1998 referendum. That was the one, the 78.4% of the community said no. Well. If that's the difficulty that the Commonwealth perceived in this matter, we will cover that difficulty we in Norfolk Island and we'll ask the community about the specifics so there is no doubt in the matter. I've got to say that some in the community may think it a bore and some of them may think it a chore to go to referendum again but if we have to in the context of this picture, I'm sure the community will understand and they'll get on with that job. So that's what this is about and why this proposal is before us. The arguments why the Commonwealth shouldn't enact these two proposed changes to our constitution, changes that are against the expressed wishes, the Government and the Members of the Assembly in this Island here has been very ably and already actively put by all of the Members who are around the table and I endorse those remarks. Mr Acting Deputy Speaker it is clear to me now given that earlier debate and comments made therein that this motion will probably pass and it will become a resolution to direct a referendum. Given that Mr Acting Deputy Speaker I therefore want to move onto the next stage which is the referendum itself and place into the public forum today, forthwith. The vital truth that the scope of this referendum stretches well beyond those important issues of Australian citizenship and period of residency prior to enrollment. They are very important issues. But let's examine again for a moment those two points. Australian citizenship. Is it such a bad thing to have Australian citizenship. Of course it isn't. Those who have it can be very proud that they have it. Many even cross the world to seek it. Some in small

and leaking ships. And those who want it will continue to want it. It is a very honourable citizenship to hold. But you see this is not a question about whether Australian citizenship is good or bad. The real question is should it be forced upon us. Should an external government dictate their citizenship upon our enrollment procedures. Should it be dictated as a prerequisite to being a candidate for election to the Norfolk Island legislature in which we sit. Should it be forced by an external authority to the island into our Constitution if we, the Island community, decline the provision. If we don't see it as a necessary requirement, good thought it may be, it's not essential to our electoral needs. We shouldn't be whipped with it when in fact the real test should be acceptance into the Norfolk Island community. More appropriate probably under the provisions of Norfolk Island residency. Next, should your enrollment entitlement be dictated after six month residency here. Now there are sound reasons that have already been expressed why they should not be so, but again there's this wider issue that such matters should be locally decided, not initiated externally and dictated by others into our constitution. These are matters for Norfolk Island not for others. Leading on from that Mr Acting Deputy Speaker we are presently making strong advances to settle a range of self governmental issues in this the twentieth year since we started. We started in August 1979. In our self government model colonial overlordship by the Australian A government can no longer be an acceptable part of the machinery of government and when it appears, when it exhibits its wares we must together firmly stand against it. The electoral processes that we've got in front of us today with referendum issues are examples of just that. Of the colonial overlord extending sovereignty over us when in fact there should be a devolution of authority to us. These provisions in the wider perspective of self government clash with our agreed aims that Norfolk Island and our Government should make our decisions. Do we rule this place or does a colonial overlord do it for us. So in this referendum Mr Acting Deputy Speaker can I say to all of the Members here and say to the community at large, your answer to the referendum question will contain a message significant beyond the scope of the words of the question. Your answer whilst it might be a simple mark against the yes or no on the ballot paper will call upon the wisdom of all to influence whether we are able to achieve government of ourselves and only government of ourselves will perpetuate Norfolk Island's identity, our heritage and our people as a distinct people. Mr Acting Deputy Speaker, that's what this referendum will be about.

MR BROWN

Mr Acting Deputy Speaker I certainly intend to support the motion. I think it's helpful in fact from time to time to find out what people think about significant issues. Sitting around the table we may think that the community has one view. We might find out that it is quite different. I doubt that. I think the community view will be very similar to that which has been expressed by number of Members this afternoon. Certainly I've started to have more and more concern about our dealings with Canberra over recent years. We continue to have things being thrust at us with the intention of ramming them down our throats and being told that it is something that is in Australia's national interest and, therefore, Norfolk Island has to bend over and cop it sweet. Well, I'm not sure that the Australian Government is properly recognising their role in relation to Norfolk Island if they think that they should seek to extend things to Norfolk Island in Australia's national interest. We are not a part of Australia. I've got no doubt about that statement. We are not a part of Australia. We are an External Territory under the authority of Australia. We can be described as a dependency of Australia. We can even be thought of in terms of a trust Territory and that word 'trust' is pretty important Mr Acting Deputy Speaker because what's happening here is a betrayal of the trust which was placed in the Australian Government in the very early part of this century. Norfolk Island didn't become a Territory under the authority of Australia just so that Australia can slowly, over time, Australianise it. It wasn't made a Territory under the authority of Australia in order for the Australian Government over time to seek to make it a part of Australia. Australia's role was to assist Norfolk Island in its development. Now, as Mr Buffett mentioned earlier, this particular issue has come up in the past. The Australian Government on each of the occasions and interestingly the most recent time was a Labour Government rather than a Liberal Government, even that Labour Government realised in the end that Norfolk Island was quite right and that the stories they had been fed by their bureaucrats really were more than a little bit

inaccurate. It's unfortunate that bureaucrats seem to be able to have a lot of say when it comes to what Ministers do and say. I don't know where this issue gets regurgitated from each time but I wouldn't be at all surprised if it's somewhere in the bowels of the Department in Canberra and that causes me to think that maybe it's time we had a new Department because if, as Ric said, the stated goal of this Department for years was to strengthen Australia's sovereignty over its external Territories then that is very much the opposite of the role that the Australian Government should be having in relation to Norfolk Island. Strengthening of sovereignty in relation to an External Territory really means expanding Australia's hold on that Territory and causing that Territory to eventually cease to exist in its own right and become part of mainland Australia. So I'm coming very much to a view that one of the things we should be doing is urging the Australian Government to get Norfolk Island away from the Department with which it is presently connected and to find some other Department that is prepared to honour the obligations that the Australian Government accepted back in 1913 when the constitutional change at that time occurred. Members might recall that several of us went to Canberra to meet with people in Canberra to discuss this proposed change and we were told that the Australian Government really had no ability to avoid it, that it was something that was essential because of a couple of court cases that occurred in Australia, the case of Sykes vs Cleary and the case of Free vs Kelly, and we were told for that reason there was simply no room to even talk. This had to happen. Well, Sykes vs Cleary and Free vs Kelly have nothing to do with Norfolk Island. They have to do with the Australian Constitution and a requirement in that Constitution which prohibits a person holding two offices of profit under the Crown. Mr Cleary was a schoolteacher, I think he was on leave without pay at the time, but he was nevertheless a schoolteacher at the time that he was nominated for election and that case simply held that he was ineligible to nominate. Free vs Kelly was about something similar. That was about a lady that was in the airforce and wanted to transfer, if my recollection is correct, to the Airforce Reserve but as at the date of the nomination she hadn't achieved that transfer. So, when the Minister of the day told us that these two cases were really what cause the problem, I asked if it might be possible to get a copy of the legal advise about it as we were assured that detailed legal advise had been obtained. And the situation didn't make much sense to me and that legal advise would have been extremely interesting to read. The officers of the Department scurried around and told the Minister he wasn't allowed to release legal advise but the Minister suggested that perhaps they could provide us with a sort of précis of it and the Minister undertook to do that, just like the communication that Mr Buffett referred to earlier that never came, the précis never came and each time that was asked for the Commonwealth's various people retreated further and further away from providing it, and there was a good reason for that of course, and that is that if the legal advise existed, it didn't say anything like what was claimed because as I said it dealt with the Federal Parliament, it dealt with the Federal Constitution, and the particular provisions of the Federal Constitution have absolutely no application to the Legislative Assembly of Norfolk Island. Over time, the Commonwealth position changed and they decided that it wasn't that at all, it was the case of Berwick vs Grey that really had made Norfolk Island a part of Australia and they said for that reason Norfolk Island has to do things the way they were done in Australia. The only problem with that was that's not what Berwick vs Grey said. Berwick vs Grey was a case about two people who didn't want to lodge an income tax return from a Norfolk Island company and those people lived in Australia and they had been summonsed, I think, to the Philip Street Court of Petty Sessions in Sydney for failing to lodge a tax return and all that Berwick vs Grey really said was; look, if the Income Tax Assessment Act extends to Norfolk Island then those people were bound to lodge their tax returns. It didn't say that Norfolk Island was part of Australia at all. It is authority only to one proposition and that is that the extension of the Income Tax Assessment Act to Norfolk Island was a valid exercise of the Commonwealth powers. So, if we are being told that Berwick vs Grey is that latest reason for all of this, well with the greatest of respect that too is poppycock. I've had the opportunity over a number of years to look at a number of historical documents and a number of advises in relation to the history of Norfolk Island and a number of articles that have been written by different people in relation to the history of Norfolk Island. I've got no doubt as to the true constitutional situation of Norfolk Island we would like to find out what the people say and if at referendum an

overwhelming majority of the voters in Norfolk Island say they don't want to have a bar of the Commonwealth's present proposed actions then I think that the Commonwealth should think long and hard before proceeding any further with it. I certainly support the motion.

ACTING DEPUTY SPEAKER                      Thank you Mr Brown . Any further debate? The question before us Honourable Members is that this motion as agreed to  
QUESTION PUT  
AGREED

That motion is agreed

**FIXING OF THE NEXT SITTING DAY.**

MR NOBBS    Thank you Mr Acting Deputy Speaker. I move that the House at its rising adjourn until Wednesday 21<sup>st</sup> April 1999 at 10.00am.

ACTING DEPUTY SPEAKER                      Thank you Mr Nobbs, is there any debate? There being no debate I put that question to you Honourable Members  
QUESTION  
AGREED

The ayes have it. Thank you.

**ADJOURNMENT**

MR BUFFETT    Mr Acting Deputy Speaker, I move that the House do now adjourn.

ACTING DEPUTY SPEAKER                      Thank you Mr Buffett. Is there any adjournment debate Honourable Members? Then there being no further debate on the question that the House now adjourn, I put that question to you  
QUESTION  
AGREED

Honourable Members, therefore this House stands adjourned until Wednesday 21<sup>st</sup> April 1999 at 10.00 am.

