

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

Thank you Honourable Members. Please feel free to remove your coats if you would feel more comfortable this morning.

CONDOLENCES

Honourable Members I firstly ask if there are any Condolences this morning? Mr McCoy

MR McCOY Mr Speaker, this House records the passing in Brisbane on 12 March 2001 of Hubert Stuart Christopher Buffett who was known to us on Norfolk as Chris. A moving remembrance service was held for Chris last Sunday evening in the grounds of Chris and Pat's property at Steele's Point and I will now read Mr Speaker from the Eulogy given by Chris's son Charles at that remembrance service. "Hubert Stuart Christopher Buffett, known to all as Chris. Born on Norfolk Island in 1944 to Alan & Nita Glynn. His mother died when he was just 2 & he was raised by Julia and Bobby Buffett until the age 5. He then left the island to go to school in Sydney with Sally Darling where he felt that there was never enough days in the week for detention. He returned to the island after a couple of years to finish his schooling & worked on the family farm. He then went back to Sydney and started an apprenticeship as a fitter and turner but had to return to the island before completing it to care for his ill father. He met Mum on Norfolk in 1961 at the age of 17 whilst she was on holiday and he was working for the local government. His father passed away in Sydney in June of 1964 and Mum and him were married in New Zealand in Oct of the same year. The young couple spent the first 15 months of married life on Norfolk before returning to NZ for 12 years. There he learnt the trade of a carpenter & had his 3 children, moving back to Norfolk for the last time in 1977 with his family. Dad had 3 loves in his life:

- The family land & its cultural heritage
- His family
- The Volunteer Rescue Association

He showed his love by giving us everything that we ever wanted; however he always felt that what was enough for us, was never enough for him. He was a loving husband and a wonderful father, father-in-law & grandfather. Not only did he give to his family but also to his friends and community. He put his heart into everything he did. A perfectionist. The greatest tragedy of his life is that he started so many things that never seemed to get finished. One of his favorite sayings was "Too many mountains to cross & rivers to climb". This frustration was with him right up until the end. Dad was always someone to do things a bit differently. He left clear instructions for us not to morn or feel sorrow for his passing. Instead we were to rejoice & celebrate his memory. Not to feel any guilt for any unresolved issues, but to be free because of his forgiveness. He understood that we are not so much owners of things but caretakers. And as caretaker of this beautiful peace of land, he felt a responsibility to return it to the condition in which we must have received it at some stage in the past. He wanted to fill it up with native trees. The start of which we can see around us. We are now responsible for completing his dream. He was always good for an argument and wanted people to think about what he said. He loved having adventures and had a passion for the outdoors. He tried to make life fun. The last thing he would say to you is "Have fun". Even during his last days he was still putting smiles on our faces & joking around with the amazing staff that took care of him at the Royal Brisbane Hospital. He was someone you could always talk to about anything & he was a genuine listener. It was easy

to be yourself around him & he made you feel comfortable. He liked the very best that life had to offer.....". Mr Speaker, these words spoken by Charles Buffett pay a fitting tribute to his Father's life. To Chris's wife Patricia and to their children Charles, Glynn and Yvette, to son-in-law Steve and daughter-in-law Carolyn, to grand children Anna, Dana-Maree, Benjamin and Kyle, to other Members of both Chris's family and Patricia's family and to their many, many friends, this House extends its deepest sympathy.

SPEAKER Thank you Mr McCoy. Honourable Members as a mark of respect in the memory of the deceased, I ask that all members stand for a period of silence please. Thank you Honourable Members

GIVING OF NOTICES

Are there any Notices? Chief Minister

MR NOBBS Thank you Mr Speaker I wish to give notice of my intention to move a motion at the next meeting because I'm concerned that there are some proposals which have been brought to my attention in relation to the importation of fruit and vegetables onto the Island supposedly on the pretext of providing for the tourist industry. I find such a proposal extremely sad given our ability to produce such produce on the Island to value, add and retain such funds here. The concern that whilst we are aware that that providing a mix of variety of fruit be they citrus, stone r whatever may be available to grow...

MR BROWN Point of Order

SPEAKER Yes. Point of Order. Just pause for a moment Chief Minister. Mr Brown

MR BROWN It may be more appropriate Mr Speaker if this be a statement to be dealt with at statement time. It is something that goes well beyond the giving of notice

SPEAKER Thank you Mr Brown. I'm not too sure whether I will sustain that as a Point of Order at this time but may I say to you Mr Nobbs, would you be speaking and identifying the notice which you wish to give please

MR NOBBS I certainly will. I was just saying Mr Speaker in relation to that so that Members have an idea of what is behind the motion as it's very short and I believe that such varieties as are required are currently not available on the Island and it is my intention to move at the next Assembly meeting the following motion – that The Minister for Health and Environment is requested to expedite, with appropriate quarantine controls, the importation of such plant material as is required to allow for the improved supply of locally produced fruit". Thank you Mr Speaker

SPEAKER Thank you Chief Minister. Are there any further Notices this morning?

QUESTIONS WITHOUT NOTICE

SPEAKER Are there any Questions Without Notice?

MR WALKER

xxxPAGE 921

DEPUTY SPEAKER Are there any Questions Without Notice? There being no further Questions, we move to Questions on Notice. Are there any answers to Questions on Notice. There being no answers to Questions on Notice we move to Papers

PAPERS FOR PRESENTATION

Are there any Papers for presentation?

MR NOBBS Thank you Mr Deputy Speaker in accordance with section 41 of the Interpretation Act 1979 I table the Public Sector Management Regulations 2001 and the Regulations refer to the prescribed manner of notifying the selection of an applicant to the Public Service or the decline in the acceptance of a person to the Public Service and also the prescribed form for the notice of appeals under the Public Sector Management Act

DEPUTY SPEAKER Are there further Papers for presentation.

MR NOBBS I table the virement of funds advice. These confirm that the underlisted funds have been transferred by way of virement. Attached to the document will be a list of copies of the directions given by the Executive Member. These issues include the lease of computers and photocopiers, purchase of mobile phones, a purchase of a compound saw, the purchase of a vacuum pump and more mobile phones and cameras and a scanner and also, in relation to the budget review which is being completed the virement of funds to finance the offshore finance centre which is some \$43,000 and \$105,000 was viremented to medical expenses under welfare.

MR SMITH Thank you Mr Deputy Speaker. I would like to table and move that they be noted the Inbound Passenger Statistics for February 2001.

DEPUTY SPEAKER Thank you Mr Smith.

MR SMITH Mr Deputy Speaker I'd like to report that visitor numbers for the month of February of the year 2001 was a higher number than it has been in the previous 2 years, with the total number of 2,932 compared to last years 2,505 and the year before of 2,463. The visitor days which are always an important indicator of what is happening with the accommodation side of things there was 20,438 visitor days compared to 17,340 in the previous year.

DEPUTY SPEAKER Is there further debate in relation to the tourism figures.

MR WALKER Thank you Mr Deputy Speaker. I'd just like to note that although those figures are up the concentration of the increase appears to be in 3 states of Australia and again we see a decrease in New Zealand and most of the other areas except Western Australia seems to have performed really well. I would just like the Minister to note that there is a continuing need for us to bolster those or somehow or other address those figures out of New Zealand to ensure that we maintain the airline service that we have at present. Although I congratulate him on the increases in those 3 states of NSW, Victoria and Queensland, they look excellent. Thank you.

MR SMITH Thank you Mr Deputy Speaker. Thank you for the congratulations Mr Walker about that. That actually goes to those people involved in our marketing promotion, the people of Norfolk Island who are involved in tourism and try to encourage it to the best degree. I'd like to also report and I was hoping Bruce would raise

the issue of the New Zealand numbers which have been declining that in the last few weeks Air New Zealand has come to the party and run a special fare which was available up until the 20th of March and the initial report, the amount of bookings for the next 4 months will show the numbers at one stage possibly even doubling what they have been over the last few months. The responses to the new fare and package have been really really good. That's not only the fare of course Mr Deputy Speaker, Tourism Norfolk Island has been doing lots of promotional types of things in New Zealand over the last 2 or 3 months in their promotions using television, using radio and we've had visits of journalists and others who have been visiting the island and we're getting a great response out of there.

DEPUTY SPEAKER Order Mr Smith. Do you wish to retain this for a Statement or is relevant to the tourist figures that we have in front of us.

MR SMITH It's certainly not a Statement. This is just debate on the promotion and in relation to what Mr Walker asked but now we've got to that point I don't know what else I was going to say Mr Deputy Speaker, except to report that I should be able to say at the next sitting if there is a next sitting or the one after that the numbers will be showing an increase.

DEPUTY SPEAKER Thank you. Is there further debate.

MR BATES Thank you Mr Deputy Speaker. I guess this is more in line of a question rather than debate but I'm wondering if Mr Smith does have any figures that might give us an indication as to whether the increases in these tourist numbers are brought about by activities of groups or whether it's brought about by independent travellers.

MR SMITH Mr Deputy Speaker I couldn't report that this morning, I'd need to do a little bit of research on that but it is an interesting question that does get asked regularly whether the, because at certain times of the year there's more groups here than there are IT travellers and maybe that's something that we can include with this data when we report to the House actually to give some indication of that.

DEPUTY SPEAKER Is there further debate. There being not further debate I put the question that the Motion be agreed to.

QUESTION PUT
QUESTION AGREED

Are there further Papers for presentation.

STATEMENTS

MR SMITH Thank you Mr Deputy Speaker. I offer the following Statement. As an overview of the current Norfolk Island position in relation to the well known foot and mouth disease that has taken over a lot of Europe the overview of Norfolk's position regarding the foot and mouth outbreak in UK and Europe, Officers in our Quarantine Section have made contact and received advice from Quarantine Departments in both Australia and New Zealand. This advice covers countries and products which are of foot and mouth disease concern, however the list of countries effected continues to change almost daily Mr Deputy Speaker. Norfolk Island is fortunate in that all goods imported and all passengers arriving at Norfolk Island pass through either Australia or New Zealand and it appears that all goods being unloaded from containers for transshipment to Norfolk Island are being monitored. However it does not mean that we do not have to worry at this end. Norfolk Island Quarantine Service will be seeking assistance from importers and the public

who may source any of the following banned products from countries in the European Union and all other countries in which foot and mouth disease is endemic to ensure that Norfolk Island and the region are not put to risk and these are the products Mr Deputy Speaker. Processed meats and dairy products for example prepared meals, shelf stable hermetically sealed meat and dairy products, flavours, infant formula, chocolate, confectionary and cheese, canned and dried pet food, pig meat, new and used saddles, harnesses and tack. There are some countries and goods prepared before certain dates from within the European Union which are not effected but more detailed advice can be obtained from the Quarantine Section by phoning them on 22609. This assistance is being sought due to the fact that most goods arriving by ship go straight from the wharf to the importers premises. Quarantine Officers are unable to check documentation or the goods before importation onto the island. Increased surveillance procedures of passengers arriving from the foot and mouth disease effected countries have been adopted and questions have been asked about the visit of aircraft and crews, for example from New Caledonia. New Caledonia is known to be free of foot and mouth disease so no additional restrictions apply, but the public co-operation is sought until the foot and mouth disease threat is over. So Mr Deputy Speaker if anybody has any further questions could they please contact the Quarantine Section on 22609, that number is in the telephone book and those Officers will try to get answers for you. Thank you.

MR BUFFETT Thank you Mr Deputy Speaker. Mr Deputy Speaker Members will recall an announcement I made in February to develop a new package on justice and courts legislation's for Norfolk Island. Expressions of interest were sought from members of the community to participate in a committee for this purpose. Two community members have indicated their willingness to participate in this process. At my request the Legislative Counsel will be conferring with a range of people, including Mr Cook QC with a view to the first meeting of the committee being hopefully next week to discuss the project and prepare and arrange a preliminary report by the end of this month. All the Norfolk Island Magistrates will be invited to attend that first meeting as well as representatives from the Police and from the Legal profession and from the Youth Advisory Council. A report is requested at the end of March outlining the priorities and the processes by which the committee will prepare this legislative package within the anticipated timeframe earlier announced Mr Deputy Speaker of 6 months. Thank you.

MR NOBBS Thank you Mr Deputy Speaker. The first one is in relation to substance abuse. I just want to advise the community that co-ordinated programmes with the Salvation Army is currently visiting the island. As you are aware Mr Deputy Speaker the Assembly approved the appointment of a person yet to be selected for a period of 3 months to provide a profile for any problems we may have in relation to substance abuse and that the co-ordinator with the Salvation Army programmes, and he's not a member of the Salvation Army as such, but an employee will be supervising that person and it's important that he familiarise himself with the island and is currently meeting with various bodies with an interest in substance abuse. The second one Mr Deputy Speaker is in relation to telecommunications. Mr Deputy Speaker I wish to advise the House on Norfolk Island's telecommunications international link. A competitive selection and tender process has now been completed for the provision of telecommunications services to Norfolk Island following compliance with all aspects of the tender and networking the nation funding guidelines the tender has been awarded to Telstra Corporation Limited. Work will soon commence on the installation of a satellite antennae infrastructure to ensure continuity enhancements to our telecommunications link. As previously advised in the House funding contributions will be \$750,000 as obtained from Networking the Nation Fund. This Mr Deputy Speaker is a significant moment in our telecommunications history on Norfolk for improved telecommunications and provide the opportunity for commercial initiatives which are linked to a first class telecommunication

platform. Other telecommunication initiatives are being worked on and I will keep the House informed on these developments.

MR SMITH Thank you Mr Deputy Speaker. I've got 2 Statements here. One is in relation to advice I've received from the Norfolk Island ATA which is the Accommodation Tourism Association just for the record, that I've been advised that at the AGM of the Accommodation and Tourism Association the following persons were elected as Office bearers for the following year. President is Duncan Evans, Vice President Ryan Purse, Vice President Joanne Christian Bailey, Secretary Nadia Cuthbertson, Treasurer Helen Christian Bailey. I'd like to thank Duncan Evans who is the new President for advising of this and wish him well in his term over the next 12 months and thank the outgoing President which was yourself Mr Deputy Speaker for the assistance you gave to the ATA and myself over the past year. The second Statement Mr Deputy Speaker is about Commonwealth Day that was celebrated at the Norfolk Island Central School on the 12th of March, 2001. The Speaker of the Legislative Assembly addressed the school students on what the Commonwealth Day was and what Commonwealth Day was all about. He spoke of many things but he spoke of how important it was that young people need to learn how to peacefully resolve differences in a world wide scale. In fact that may have even come from the Queen's message that was read by the Speaker at the School. Very important message that I think the kids appreciated. The opportunity was taken on that day to premier the new generation website which features the Youth Assembly's web page, the Youth Council's web page, the CPA the parliamentary history pages. That was put together as a project in relation to a CPA competition for ways of promoting the CPA amongst young people around the world, hence the new generation title to the website and Norfolk Island put in a bid that we would develop web pages that would connect the youth things that we are doing here with the Youth Council, the Youth Assembly, the School and the Legislative Assembly and the CPA. A very worthwhile thing and Norfolk Island was one of only 10 recipients to actually get awarded the prize, one of the prizes for using that project as a concept and there was quite a few people involved in getting that together in a very short amount of time and they did very well. Pages of the website can be seen at www.norfolkisland.gov.nf/new-generation. I think that will appear on different material in future if people would like to have a look at those pages. While we're talking about the School, in the beginning of April we will have the District School Superintendent Mr Wayne Parkins visiting the School along with Mr Peter Skeins who is deeply involved in the linking of Schools and the TAFES within Australia. It's hoped that Peter will be able to assist our students with their future career options which may, may include TAFE options. Mr Wayne Parkins will be meeting with the Teachers, he will also be taking an opportunity to meet with parents during his visit if they would like to have a talk to him. Also visiting during that week will be Ian Travellan who is an Industrial Psychologist to discuss careers with the senior students of the Norfolk Island Central School. So that's all good news for the School students and we're hoping that Members can meet up with Peter Skeins and Wayne Parkins during their time here as well.

NOTICES

WRIT FOR NEW ELECTION

MR COOK Mr Deputy Speaker I would like to call upon the opportunity to have on the programme Motion No. 4 on the business paper and that was a Motion that I sought that this House be dissolved and the Administrator be advised and a new election should be at the earliest possible time. I ask that that Motion be called upon forward and I ask that it be advanced to No. 1 in the list of Notices.

MR BROWN Mr Deputy Speaker I have no objection to that going in front of the Motions in my name.

and the very serious effect that it may very well have on the Government of Norfolk Island. I cannot predict nor do I for one moment what may be the outcome of this Motion. If indeed it was discussed as it obviously requires the fullest discussion around this table, then matters may emerge as it were that will take many years to heal and to recover as it were a degree of credibility for the House and its conduct of its affairs. I am quite satisfied so far as the person referred to in the Motion, the Chief Minister that he's satisfied he has sufficient means and sufficient material at his disposal to combat the Motion successfully. That may very well be his conviction and he may think it somewhat presumptuous of me to possibly even prevent such a situation occurring if indeed my Motion succeeded one would tend to think that it may not be at all necessary to examine the matters in that Motion, that's always of course a matter for the mover of the Motion to make that determination, but while I don't seek to prevent a proper examination of the issues raised by that Motion and one must always be very aware in this House that the fullest examination of all issues must take place and that all points of view must be received and fairly received and considered by Members around this table I nevertheless believe that the Motion and the bringing on of it at this particular time reveals a degree of instability in the Government which is certainly one which I am aware is causing a good deal of concern in the community. Of course the recent events have lead to a change in the Executive membership of the Government, I make no comment about that because that was a matter which was decided by this House. I simply refer to it to indicate that that in the course after nearly 12 months of the Government has brought about a situation which somebody different has taken over the role of Executive Member in respect of that portfolio. If indeed it's going to be suggested that the Motion was successful, yet again it would appear to be necessary that another person would be introduced into the role of the Chief Minister, Minister for Finance and Government Services and I'm mindful of the fact of course that there's still to be dealt with the replacement for the Minister for Health and Environment. I think that those matters only have to be stated for there to be understood immediately that there is a real risk and could be very well perceived that the Government at this stage could be in a very unstable situation. I listened this morning to Questions Without Notice, it is the right and prerogative of every Members of this House to ask questions, challenge the Ministers but it seemed to me and it's my perception that some of the questions that were directed to the Chief Minister might have carried the perception to the community that he was being called to account for his stewardship in a real way that might reflect on the possible Motion that was going to be moved at some later stage. Now that might not have been the intention of those who were asking the questions, they were simply pursuing their proper duties of their office to make the Ministers accountable, but it could have been perceived in the community that there was being developed a situation to assist on the movement of that Motion in due course. I am concerned and I state my concerns, I feel in moving this Motion the responsibility of endeavouring to interrupt a Government which was chosen by the people only 12 months ago which has only been in existence for 12 months. One would normally predict that a Government should go its course and should enable Ministers to properly develop their policies and initiatives and to be answerable at the end of that period of time when that's a reasonable and proper time for them to set things in motion and then establish the validity of their actions by the way the public can see what they've done is working effectively within the community and one would expect that would be the normal outcome of the selection of Ministers at the commencement of the Assembly and the right that they would expect to have thereafter for a long time to pursue their portfolios. It has been suggested if not formally in the meetings of this House but certainly informally that the time of the original installation of Ministers here that there was some possibility that that would only be as it were for a trial period, or a short term period and not for the long haul. There has been a deal of disquiet suggested that the convention which seemed to have been in place for quite some time, certainly since the Council elections and seems to have persisted for a long time following that that the highest vote receivers should generally be involved very closely in the Executive Government of the island isn't necessarily that which should be pursued. Well it seems from my understandings of the comments that have

come to me from the community that the community still has belief that that system is in place and should be respected and there is a history of course on this island when going back well before the time of the commencement of the Legislative Assembly in which the community always selected those who were to govern the community, and it was very much an historical part of the House as it existed here when the Pitcairn Islanders first came to Norfolk Island. I refer to those matters because it is the perceptions it seems to me of the community which must be given in this whole issue the very greatest weight and regard and it must also be the perception and attitude of Members of this House as to where they are going with this particular Assembly. It does appear that there is developing within the Assembly itself factions which tend to be opposing to each other and seem to create clashes and seem to create situation in which it is difficult and it was my experience as a former Minister to be able to certain that one could continue to pursue initiatives which even the other Executive Members agreed to. That's not to detract from the right which must be preserved at all times for there to be proper challenge to any decision which is made in this House and I don't recoil from that in any way at all. I move this Motion because I believe the time has come in the light of these possible changes which are quite dramatic and could certainly influence the flow of initiatives already taken by this Government, the things that are needed to be done. I do not believe that there is any room in this small community for a Government which seems to be more confrontational than based on a true consensus Government and it seems in small legislatures that every effort is made to establish consensus Government rather than to allow confrontation situations to emerge which are far more familiar on the Mainland with large political parties confronting each other that situation is not for Norfolk and I hope it never will ever possibly be the situation to occur in Norfolk that there are parties or factions which present themselves for election. I believe that each Member should be able to feel and the community should feel that that Members is totally in touch with what the community feels about any particular issues, that he conveys those feelings to the House and the House respects those feelings but the House of course has the ultimate determination of the outcome of any particular issues which might be raised before it, that is the responsibility we undertook, each and every one of us at the time of our election and we swore to truly and faithfully serve the Assembly. I believe that the time has come for fresh elections to be held. I believe that there is a feeling and a movement in the community that this should happen. I believe that it is the only way to remove what could very well be a period of most considerable instability which could arise from the success of the Motion now No. 1 before the House and other matters of replacement of Executive Members which might be required to be taken care of today and I believe that we should stop now, this Assembly has proceeded to the point where it should go again to the people and the people should have a very clear statement, and it should be understood that either the convention applies which has applied or to the community's understanding in the past about those who will govern this community and they should have that understanding or some system should be in place which removes from them any doubt at all that any person they elect may take the office of Executive Member. I believe that we cannot persist in dealing with a situation that the community felt was in place at the beginning of this Assembly and change it without going again to the community and allowing them to make their clear statement about it. Others will obviously want to talk about my Motion. I believe I have spoken enough and I don't think I've quite spoken 52 minutes. I hope that I will not be charged for having spoken the length I have on such, what to me is an immensely important and significant Motion, one that I've come to move with a great deal of concern and thought about it before I've actually presented it today. I ask for it to be brought forward in its particular fashion because I am most concerned that we preserve in every possible way for the future of Norfolk Island the possibility of really true effective consensus Government and not run into a situation that we just get bogged down in the play of personalities and political ploys. Thank you.

MR BUFFETT

Thank you Mr Deputy Speaker. I listen with interest to what Mr Cook has had to say and it appears that his main argument is to seek a general

election to ensure stability and to ensure that we will continue and achieve self government, and he gives a couple of instances whereby he feels that we are moving in a direction that may jeopardize that. I too am concerned about stability in Norfolk Island. In fact if you have listened Mr Deputy Speaker and my colleagues as Members I have on a number of occasions laboured the point about stability and that that is essential for us to achieve self government and it is important to consider it now. There have been two instances mentioned of petitions and letters to Government about issues in the community and I'm assuming that one of them may well have been the accommodation difficulty and expressions of concern. The Norfolk Island Legislative Assembly acted quite promptly in response to the proposed petition. Members will recall that the appropriate Minister Mr Smith advised us and we were advised that the petition was circulating and we in fact made some preliminary plans to address this problem that was seen as significant in the community. And you will know that there have pieces of amending legislation which has already addressed that. The reason I mention that is that one of the reasons proposed for having this general election is that these issues have been around and that they may have caused some instability. I just want to use that as an example to say, there has been prompt response by the Norfolk Island Government. There has been prompt response by the Members of the Legislature to tackle that difficulty and it was a significant one, a significant difficulty. In other words the voice of the community was heard in that particular instance. So if that is one of the points raised for a general election I'm not too sure that it has the same substance as maybe the mover of this Motion may place upon it. There are a number of areas that we from time to time need to tackle and some of them need to be tackled in the political dynamics of the day. If in fact we did not have these we may well ask ourselves whether there is real political interest on the community, whether we are properly representing the diversity of views that exist in this community. There are tremendous diversities of views that exist in the Norfolk Island community and one of the ways that they are seen is that issues from time to time will be raised where those diversity of views will be reflected and in our particular instance they are quite robustly put. I'm not too sure that we should interpret that when they are robustly put that the automatic conclusion to be drawn is that there is instability. The length of time some of those issues might run and some of the difficulties that they may raise may well ask us to find a point of balance in how healthy they are and how difficult they become and whether they do run into the matter of creating instability, but to use the 2 examples that are on our paper today, and I don't want to enter into those in a way of trying to pre-empt what those situations will be except to say that they may come from time to time. How they are handled depends upon us, and if we handle them well then they shouldn't be automatically interpreted as being unstable just because they have come before us, and I venture to think that they will be handled well by us today. There has been mention of 2 changes in the Ministry and that has happened. One place is yet to be filled. I assume we are going to do that today where we will tackle that situation and settle it. From time to time there will be a want for changes in the Ministry, that is not new to us, that's not new to us. Because it has happened on this occasion doesn't necessarily mean that we need to go to the polls. What it does mean is that we need to get our act together as nine members around this table and demonstrate that those who are elected to be in the Assembly and to govern the affairs of Norfolk Island have capacity to do that. Yes there will be issues that will come from time to time in which we may be at odds but we can work through that and solve it. We need to demonstrate that we can get on with the business of the day. I believe we can do that. I don't believe that we need in the first 12 months of a 3-year term to go to the polls because we have those difficulties, some of which we have already solved, some of which we have already solved. We have solved the matter of the accommodation arrangements significantly. We have already put another new Minister into place and we will do another into the vacant position today, and I'm confident that those things will be done in a way that most Members around the table will find satisfactory and the community will find satisfactory. There is a belief and it comes from time to time that an election solves all the problems. That isn't the case, that is not the case. Yes they may solve some problems from time to time but it doesn't necessarily mean

that it will solve the issues that are in front of us which are really issues for us to solve, which are really issues for us to solve, and I think we should get about doing them. It's been mentioned also that it appears that factions are developing. My esteemed colleagues, there have been factions in the days of our predecessor, the Norfolk Island Council. There were factions from day one in the Norfolk Island Legislative Assembly and there are factions because there are healthy individuals in the community who have a diversity of views and they are entitled to put them. I wouldn't want you to think that in the life of this Legislative Assembly these have suddenly become new things and because they have become new things in the life of this Assembly that we therefore need to go to the polls. One of the biggest threats to self-government is if in fact we demonstrate that we cannot come to grips with problems such as these when they come to us. If in fact we demonstrate that we in a three year term have to go to the polls to solve our problems then I think it can be really said and really demonstrated that there is a questionmark as to whether we can pick up the big responsibilities of the conclusion of gaining self-government in Norfolk Island. I am very confident that we can. I have always said that. I continue to say that. I don't believe that we have to go to the polls at this stage, in other words, twelve months into a three year term, to solve the difficulties that are in front of us and indeed I encourage the majority of Members to share that view

MR WALKER Thank you Mr Deputy Speaker I won't be very long in my speech on this motion however, I did take the time just yesterday in anticipation that this may occur, to go out and actually talk to nearly one hundred people in the community. Of those people they spanned across both public servants and private sector business people and ordinary residents. There was a diversity of opinion on the resolution of item number one, that being Mr Brown's motion as to whether we should terminate the appointment of Mr Nobbs. However, it was overwhelming that we should not be going to the polls for a new election at this stage and I can only say that I cannot support this motion in light of the overwhelming response that I had yesterday in talking to those out there in the community, thank you

MR NOBBS Thank you Mr Deputy Speaker I feel somewhat difficult in this particular situation in relation to the fact that there is a motion on the books against me, and it may be seen that if I support this, it's some sort of a cop out. the situation is simply this, in the nearly four years since I was first elected, I think April 1997, I've always maintained that if there is a wish amongst the Members to go to the polls or if there is a direction from the community to go to the polls I will most wholeheartedly support it. In this particular situation I've got another thing to consider and that's the item that follows, and I'm prepared to stay and fight it, and as such I'm weighing up my options, as I didn't really know until five minutes before the meeting that this particular motion was coming on. We had an indication last week that there would be a motion on there. it was not put on the programme, it was not put in the paper and I thought there had been some agreement with the various parties including the Business Committee to not bring this issue forward and a few minutes before the meeting when I was engaged in another issue I was informed that this was on so at this stage I am keeping my peace in relation to this and I would support if the Members agree that it should go to the people and I'm not sitting on the fence, but I would dearly love to fight the motion which is holding me in some sort of contempt as the next issue on the programme so until there's a decision on this I'll rest my piece

MR SMITH Thank you Mr Deputy Speaker I learnt of the possibility of this motion being brought on today about an election. I have my own views and always have about taking action in the dissolution of the House and taking an issue back to the people and I think it is a very strong and powerful tool to use if it is required but I really believe that it is something that you use in the case where something is seriously wrong, or some seriously wrong actions being carried out by the Government, or not even by the Government it could be a Member of the Legislative Assembly. I believe that there's not a

lot of support for us going to the polls right now at this time. I'm pleased to hear that Mr Walker has already gone out and done some research on that fact. I don't think there's that many in the community who know how well the nine of us really do get on around the table until we get in front of a microphone. But that is well known in the community, that we have different views often when we get into the House. We have regular meetings once a week which we call our MLA's meetings. That meeting as I understand it has been designed so that Members of the Government and non executives can sit around the table. It's an opportunity for the non executives to put issues on the table if they think the Government is not telling them everything, which does happen of course, and vice versa. The Government has the opportunity to raise issues with the non executives. Generally those meetings last for three or four hours, sometimes longer. We cover a lot of ground and issues from local council issues to state and Federal issues, informally. Generally decisions from that come to the House in the form of legislation or motions to the House. It is the opportunity if a Member has a difficulty with another Member whether that other Member be in the Government or a non executive, to raise issues. Like the Chief Minister and I, we have difficulties at times and I'll raise an issue with him. That is our opportunity to do that. I'll say, I don't like what you're doing Ron and he'll say, I don't like what you're doing! but at least we talk about it but one thing I can't stand is people who will use the issue of the House to solve their problems. I think the issue at the moment for those who believe that we should go to the polls over what has happened in the Government in the last few months have another option themselves and they know what that option is. I believe what has happened with the Government has been unfortunate. Mr Buffett has raised this before. I wish we hadn't lost Mr Cook out of the Government. I found him a very good Minister. I was equally if not more saddened with Mr Gardner resigning from the Government because he had been there longer, but that happens. It's a matter of replacing that position of Health and Environment. That is what we should be doing today. Filling that position and getting on with the job of being what we are supported to be, the leaders of the community, and that has become obvious from Bruce's survey. People out there are saying, you're supposed to be leading us. What are you doing. Get out there and lead. If you've got personal problems within the Legislative Assembly sort it out amongst yourselves either one to one, which is often where the problem is, or if one to one doesn't do it, and I don't mean a punch up, I mean having a talk to the Member you're having problems with and if it can't be resolved then you talk about it with all Members but I haven't been party to any meeting that I can recall recently where issues have been raised that would convince me that a Member has talked to any of the Ministers or any of the non executives where the issue has been strong enough to say that that person either shouldn't be in the Legislative Assembly or in the Government. I may be wrong but I can't recall where somebody has really tried to push an issue where something I'm doing or another Minister is doing and saying this is just no good, we can't work with you if you can't fix that up the way we want it then you shouldn't be in the Government. It has been said to me in the last couple of weeks, in fact I've got a friend who rings me every day who says I should resign but that's okay, that's my personal thing, but as far as the Legislative Assembly is concerned Mr Deputy Speaker we are the ones who are supposed to be leading. There's been talk of instability in the Government. I think the instability is in the Legislative Assembly. I think the Government is doing what it's supposed to be doing or I believe it is. Mr Buffett was right when he said we reacted quickly to resolve one of the major issues that this Legislative Assembly has had to deal with and that was the tourist accommodation issue. It didn't make everybody happy but we did it. We did it in four weeks. Where else could they do that. Pick up an issue, have a referendum and have the legislation changed and fixed up in four weeks. Not a referendum I'm sorry, a petition. Thank you Mr Brown. A petition which led to legislation to fix the problem. Now there's still people agitating about that particular issue and they will even if there was an election the next Minister will still be facing the same people and the same issue, but the interesting thing is if we went to the polls now, what would happen. If we all got back in. We could put a million dollars on it that that won't happen, but what if it did. The whole nine get back in we would still have the

problem and I think that's what Mr Buffett was referring to. By going to the polls it doesn't mean that we can get rid of Brown or Bates or Cook or somebody by going to the polls. It could happen. It really could happen. It nearly did in this Legislative Assembly we nearly all got back in. So it might not resolve. However, there are other issues that come with this. Say we did go to the polls. It would be at least six weeks and one of the most important things we are dealing with at the moment is the management structure of the public service and this is even a difficulty with the further motions that are on the paper today. We have called for expressions of interest for the new head of the public service plus three senior executive managers so we go to the polls, we all get thrown out, get a whole new Legislative Assembly, a whole new Government. A whole new management team for the public service, where will Norfolk Island be. We will be put back months and maybe years until everybody gets used to what is going on. I'm not saying that every man should stay where he is right now, forever for that reason but it's just a very important thing to think about. Finally I would be the first to say yes, let's go to the polls if I believed that we had an issue to go to the polls with. I spoke to Mr Cook earlier today and if there was to be consideration to go to the polls we would need to have something that we could go to the community with, like the promised change to the electoral Act. If we could say things aren't all that good but if we were able to say as well, we can give you the option of sorting out the voting system for example, it gives people some reason to say well let's give this a try but I don't believe there's reason enough to go to the polls right now. There are things that come along in every meeting. I heard last night and I hope it's wrong, that there's going to be a secret ballot today on appointing people. I detest secret ballots in the House because if we are men enough to be in the Government or Legislative Assembly then we should be men enough to be able to say I don't like you but I like you and stand up and be counted. I hope I heard wrong last night but those are the issues that get people uncomfortable as I understand around the table. We have to deal with those things and I would oppose such a thing happening but if everyone wants to do it that way well that's what it's all about

MR BATES

Thank you Mr Deputy Speaker. There is no doubt that this motion has been brought about by a certain degree of dissatisfaction particularly by the Member who moved it. He had another motion on the table which is really in some ways quite contradictory to this one and as far as I knew when I came to this meeting this particular motion wasn't even coming on so that must tell you that there is some degree of uncertainty by the mover of the motion as to what he really wants to achieve because the two motions are fairly well apart. I think it would be sad if after an election you had nine Members sitting around this table all agreeing with one another. I don't think that would be in the best interests of this community and I think that people who have a view, especially in the back bench that they have a role to play in trying to get things to move a little bit better. Now I'm sure Mr Smith himself would say that when he was Minister for Finance because I have some strong views on finance, that I gave him a hard time but I think he would also say that outside the Chamber he and I never had a bad word for each other. The same thing is happening now. I'm giving the Chief Minister a bit of a hard time over finances because I believe that with our finances at present we cannot continue on our present taxation base. Now because I've said that people have talked about the Brian Bates Consumption Tax and they've said Brian Bates wants GST and all those things. Brian Bates doesn't want those things. Brian Bates wants what is best for Norfolk Island and Brian Bates is of the opinion that if we continue with our present revenue scheme with our self-government proposals we will go down the tube and that's the only reason why I keep trying to have something done with finance. I have no personal axe to grind about that. I'm okay if nothing changes but it's one of the reasons why I get on the backs of our Ministers for Finance because I believe that this community needs a better deal and we need to do something about it. That's not personal. Nothing at all of that and I'm sure Mr Nobbs will say that I've never had a personal bad word to say about him but I've certainly taken him to task in the House and that's healthy. It's got to be healthy. Mr Cook in moving the motion commented on the fact that he thinks that by tradition I think he said, I don't want

to use the wrong words, but the community out there should select the executives or something along those lines. Or those who poll highest automatically should have the executive offices. Now I've always opposed that. The law is that the community elects nine people. Those nine people are all equal when they enter the floor of this House. Now in the power struggle it usually means that the four with the highest votes claim the positions and if they get the support they get them. I think that's a little unhealthy but it's the way it is. But let's assume it wasn't that way. Let's assume that automatically those who get the highest votes get the job. What if you get one in there who sits on his backside and does nothing. We can't remove him because it's said that he got so many votes from the community. The community will probably deal with him in three years time but what's going to happen in those three years if we as Members do not have control over our executives. If they are there for three years and we can't touch them then I think we're heading for real trouble. What if we get someone who runs amuck with his authority. We still can't get rid of him because the community has voted pretty highly for him. We're stuck with him for three years too, so that sort of thing for good reason, the choice and number of executives, we could have nine executives tomorrow if we moved a motion in the House and appointed him or the four executives that we have. That's in our hands and that's healthy but to take it out of our hands I think we're heading for trouble and I want to make that point because I think that's what Mr Cook is heading towards. Let's have seven executives that we can sack and they stay there for three years until the community deals with them. I think it shows something about the character of a person that when something gets too hard they put it in the too hard basket and runs away from it. I'm certainly not happy with some of the things that happen here but I don't intend to run away from it, I intend to keep plugging away to try and make things a little better for this community through my actions. I will not support the motion because I think that is running away from my responsibilities

MR BROWN Mr Deputy Speaker the Chief Minister made reference to motions one and two on the Notice Paper, at an earlier time. It might be helpful for me to advise Members that I do not propose to call those motions on today. I've been asked having regard to the fact that there is a new Minister to be appointed today to give the changed Government a chance before I call those motions on and I'm quite prepared to do that and if that makes any difference to the Chief Minister's thinking it is fair that I tell him now rather than later

MR GARDNER Thank you Mr Deputy Speaker that is a particularly important consideration in my discussion on this subject. Prior to that I would have supported going to the polls because if you are going to look at tipping out your Chief Minister and you're going to look at removing other Ministers from the Government and certainly that is intended further down the line, I think we heard that the other day that maybe another Minister is in a Members sights, so the problem of this isn't going to go away. However, with what Mr Brown has said, that changes my opinion and I would be somewhat adverse to going to the polls at this stage simply because I believe in giving people a fair go. Some comments passing around the table, I'm a little concerned with something Brian said about running away. I know there's been a lot of speculation and discussion in the community about my reasons for tipping myself out of a portfolio which is an unusual thing to have happen on Norfolk Island. Normally it's the Legislative Assembly that tips an executive member out of their portfolio but I've discussed it at great length with a lot of people in the community who have been kind enough to offer their support to myself and my family, realising the difficulties that we've faced over the last few months and certainly few weeks and the reasons for those resignations. I'm not going to go into that in depth today Mr Deputy Speaker, but they relate to my frustrations, my frustration with my colleagues' support in many areas which I see as being of vital importance to the future of this community and my frustration at the incessant drive for self-government even though I'm probably one of it's staunchest supporters, but to incessantly drive for self-government and overlook some of the more here and now type issues is inappropriate and I refer to

issues such as waste management where the combined comment of the Members of the Legislative Assembly was a page and a half from one of my colleagues which dealt with some of the issues contained in the draft Waste Management report but basically said let's continue collecting aluminium cans and let's see if we can tie down rubbish on the backs of trucks and that was very disappointing for me as executive member to know that as far as Waste Management which I view as a particularly important matter wasn't viewed in that light by my colleagues and that's unsettling to any person who is entrusted to the guidance of a matter like that by the Legislative Assembly to basically be cast aside. Other reasons were my disagreement over the content of some of the Intergovernmental meeting paper dealing with infrastructure and the transfer of powers. Again those relate more to matters of we need to accept more responsibility for ourselves and take that on board. Family pressures bear on those, personality differences with Members of the Legislative Assembly and that's nothing new. I think we all have difficulties from time to time with each other but as Brian said those difficulties are experienced more in the House than they are outside of the House. Also the difficulty I had over the tourist accommodation quota amendments. I saw that as a blatant inconsistency in Government and decision making by this Legislative Assembly and I could not see myself as being an effective executive Member in the Norfolk Island Government and it was better for all concerned that I step aside at this time. That's not to say that I'm running away from it and maybe Brian was indicating that I was. Certainly that's not the case because there's one important thing that we too often overlook in the Legislative Assembly and that is the power of the non executive Members of the Legislative Assembly they wield the ultimate power and a properly organised and effective non executive group of which the mover of this motion is a part, I am a part and most of the other Members who sit around this table are a part of, if they are dissatisfied with the direction of Government can very simply and effectively change that direction by the power of their vote and I'm confident that that power is retained and if we really feel strongly enough about the direction that government is taking we have that in our hands to be able to change that and that certainly heartens me and I feel that if we can organise ourselves properly as an effective backbench then we have control over the destiny of Norfolk Island for the betterment of Norfolk Island at all times

MR McCOY Thank you Mr Speaker I don't have a lot to say on this issue because most of what is needed to be said has already been said but I don't support the motion. I have not carried out such an extensive survey as Mr Walker, I have been guided by what Members of the community have come and told me and as Mr Smith has pointed out, many people in the community believe that they have elected a Legislative Assembly to be in place for three years and they simply wish the Legislative Assembly would stop playing silly games and get on with the job of running the Island. I believe as someone said, there are many in the community who think to have general

MR BROWN The Member has accused Members of the Legislative Assembly of playing silly games. The Standing Orders provide that a Member shall not refer to other Members in that fashion and that is my Point of Order

MR SPEAKER Mr McCoy did you want to make representation to me

MR McCOY If I made that statement I did not accuse Members of playing silly games, I simply recited what some Members of the community have said to me

MR SPEAKER Yes, thank you both Mr McCoy and Mr Brown. I think there is no point of order on this occasion Mr Brown

MR McCOY Thank you Mr Speaker, and if some in the community believe that elections are imminent well then we need to address that issue. We need to find out if the majority of the community or just small groups want that and in saying that I

believe that if the Legislative Assembly felt so strongly that we were failing we should go back to the people in referendum, not throw our hands in the air, be driven by emotion and say, well let's tip it all out, throw out the baby with the bathwater. As we've already heard around here, we've only been in place for just over twelve months and there are many issues being resolved, there are many very important issues which are coming to a head and I think if this Legislative Assembly was to turn around and say, well we are going to give it all up now, that would be totally irresponsible of this House. I don't support the motion

MR COOK Thank you Mr Speaker it may very well be having heard the debate around the table that I'm simply the lone voice crying in the wilderness. So be it. I say no more

MR NOBBS Thank you Mr Speaker I go to my position as being torn between two issues. Mr Brown has said that he will withdraw the two motions, one and two and that's correct isn't it? He wouldn't be asking to bring them on. It's an axe over my head but I'm quite prepared to do that because for four years I've had these constant altercations with Mr Brown, I don't know why, but it's been on, and definitely so in the life of this Legislative Assembly. I will stay and fight. I don't think in view of this that I will support the mover of it, although I understand his position in relation to it, and there has been some indication in the community that we should go to the polls, from the membership around the table as I said, I will support any move that is passed by all Members. It is obvious unless you change your views in the next few minutes that it will be eight one so I don't think there's any need to be a really you beaut Finance Minister to be able to count in this partiucular situation so I would suggest that I would not support the motion but in relation to those other issues that are hanging over, I'm quite prepared to accept that hanging over from one meeting to the next, bearing in mind that you can call a meeting at any time in the current situation where you have five backbenchers and four executives, that there will also be an axe over one's head, as an executive and it's up to the other five members to support you or give you the flick. I notice that a week or so ago it was both George and I in the sights. The current situation now is that we're back to the status quo where I presume both George and I are in the sights and I think we should just carry on with the business and I move that the question be put

MR SPEAKER Is there any further debate, because I don't think we need to address that question Chief Minister if there is any further debate

MR NOBBS Certainly Mr Speaker I thought it was all over

MR GARDNER Thank you Mr Speaker I'll only be brief. It's just in relation to Mr Walker's survey, certainly I speak to a lot of differing people than Mr Walker speaks to and there has been in the last few days what I perceive a growing support to go to a general election, however as I explained before my view differs from that but it is certainly important to consider and I think I wasn't the only Member that was on the receiving end of some comment when the petition relating to tourist accommodation quota was presented to the House and we had some Members of the community sitting behind us when we were discussing that but it was certainly intimated to us then by Mrs Sheila Grimshaw who was one of those who had carriage of generating that petition who indicated to me that lucky this was all it was because most of the people that she had bumped into who had signed that petition would have preferred to have a petition for a general election at that time so certainly those views are out there but for the reasons I've explained today I will not be supporting the motion

MR SMITH Thank you Mr Speaker not wanting to prolong the debate on a motion that is not going to go ahead, Mr Gardner has picked up an issue which

I think does need further explanation. I think he's quite right. The discussions at the time of the petition were whether they called for an election or for the removal of Ministers or whatever, about that issue. The way the petition ended up, it was dealt with in a way that most people would have been happy with and I think largely the issue has been dealt with. not everybody is happy with it but I think it's important to say that in relation to what was being said at that time, it was in relation to the issue. We've resolved that issue in the best way that the majority felt it should be handled and if that same procedure was gone through again it would be interesting to see what the results would be now that that issue has largely gone away and I don't knock anybody doing those types of surveys on the community from time to time, whether it's an issue where people are really offside about what we are doing, in fact I welcome it

SPEAKER Honourable Members I put the question to you

QUESTION PUT

MR COOK	AYE
MR BROWN	ABSTAIN

The motion is resolved in the negative

NOTICES

TERMINATION OF APPOINTMENT OF CHIEF MINISTER TO EXECUTIVE OFFICE

CHANGE OF DESIGNATION OF THE EXECUTIVE OFFICE PRESENTLY TITLED CHIEF MINISTER AND MINISTER FOR FINANCE AND GOVERNMENT SERVICES

Mr Brown, in respect of Notices 1 and 2 you foreshadowed that you wanted to say something

MR BROWN Mr Speaker I don't seek to call those motions on today for the reasons that I gave a short time ago

SPEAKER Thank you. Then before I call Notice No 3, Chief Minister I believe you seek the call

APPOINTMENT OF NEW EXECUTIVE MEMBER

MR NOBBS Thank you Mr Speaker I seek leave to move a motion in relation to the appointment of a replacement Minister for Health and Environment if I may

SPEAKER Yes, leave is not required and you may proceed Mr Nobbs

MR NOBBS Thank you. I move that Alan John McCoy be chosen to be Minister for Health and Environment and that the Administrator be advised accordingly

SPEAKER Honourable Members are there any further nominations

MR BATES Thank you Mr Speaker I believe that other Members have expressed an interest in that portfolio and in the interests of at least giving them a hearing I'm prepared to nominate John Terence Brown to that position

SPEAKER Thank you Mr Bates. Further nominations. No. Then we will proceed. Honourable Members we are at this stage. There are two methods that we may adopt in this situation. We have indication of two contestants in this particular situation. The first was the proposal made by the Chief Minister. One method is that there is an amendment to that in respect of the proposal made by Mr Brown and that will be done in open session. If in fact you wanted to do otherwise as I remember we have done on an earlier occasion where you wanted to proceed to another form of confidential ballot then we would need to have a motion in respect to that situation and we do not have that at this moment but I just mention those options to you

MR BATES Thank you Mr Speaker I think we should be consistent in the way we handle these matters and on that basis, I would move that we handle this in the manner in which we handled the previous one

SPEAKER That is in accordance with Standing Order 234. If that is the proposal I will put that proposal to the House and the proposal is that we

MR NOBBS Thank you Mr Speaker may we speak to it

SPEAKER If you wish

MR NOBBS I'm against the secret ballot situation. It think it's a complete copout. I think that when we came into the House originally we were voted on. There was discussion at that particular point in time. Some of it quite embarrassing to our families and the like who were sitting in the visitors gallery and I would suggest that if we go down this road and continue this business of having this secret sort of arrangement going on and not openly requiring the support to be noted in each situation that we are doing a complete disservice to this House and also to the community in general. the community Mr Speaker, if they wish to dissolve the Legislative Assembly they may petition the Administrator that this should occur. Now each person who puts their name on that petition has to identify themselves so if it's fair enough for the community to identify themselves Mr Speaker, it's fair enough for everybody around this table to indicate who they are actually voting for and I find this whole business of a secret ballot quite abhorrent and I don't accept it, thank you

SPEAKER Thank you. Further debate. I will put the question that we apply Standing Order 234 as to the method of choosing the executive member.

QUESTION PUT

Would the Clerk please call the House.

MR BUFFETT	AYE
MR NOBBS	NO
MR BATES	AYE
MR COOK	NO
MR MCCOY	NO
MR GARDNER	AYE
MR WALKER	AYE
MR SMITH	NO
MR BROWN	AYE

MR SPEAKER The result of voting Honourable Members, the ayes five the noes four the ayes have it. We therefore have two nominations Honourable Members.

We are proceeding in terms of Standing Order 234. There are no further nominations so I will ask the Clerk if she will distribute ballot papers and collect the ballot papers and ask her if she will give me the result of the ballot

Honourable Members the result of the ballot is that John McCoy has been elected to executive office. Mr McCoy, congratulations to you on your election to executive office

MR McCOY Thank you Mr Speaker if I may say a few words. I thank you Members for their support and for giving their confidence in me that I can carry on with the task that the previous Minister Mr Gardner had. My intentions are to keep working in the manner that Mr Gardner has and to progress the Norfolk Island land package as all members are aware we have quite a number of Acts that need amending for the new Norfolk Island Plan to be really effective.

MR SPEAKER Thank you. Thank you Honourable Members. Honourable Members we are continuing Notices.

CHARTER FOR NORFOLK ISLAND AND CODE OF ETHICS FOR MEMBERS OF THE LEGISLATIVE ASSEMBLY

MR COOK Thank you Mr Speaker. Mr Speaker I move in the terms of the Motion No. 3 that this House resolves as a matter of urgency and in the event prior to any further general elections of the Members of the Legislative Assembly all necessary legislation and regulations be enacted and made to provide for and put in place changes to the structure and proceedings in the Legislative Assembly as follows: 1) an appropriate and suitable charter for Norfolk Island and a Code of Ethics for the Members of the Legislative Assembly be established by legislation, changeable only as a result of referendum 2) the number of Members of the Legislative Assembly be reduced from 9 to 7 all whom are to be appointed to the Executive Members 3) all such Executive Members to be paid an equal and reasonable remuneration to be determined by the Remuneration Tribunal and to be as such to be fairly and able an Executive Members to work full time in the discharge of his or her duties and responsibilities of office and 4) questions on notice at any sitting of the Legislative Assembly to include questions from individuals who's anonymity is to be preserved if requested and organisations within the community to Executive Members in relation to their areas of responsibility provided for all such written questions are delivered to the Clerk of the Legislative Assembly no later than 7 days prior to such sitting. May it please the House Mr Speaker this Motion that I have brought forward, I provided at an earlier stage to the community by way of a press release which I expressed my gratitude to the editor of the Norfolk Islander a copy of the charter of the Isle of Man which I suggested might be some form of a model or guide to developing a suitable charter for Norfolk Island, and also the material from the Legislative Assembly of the Province in Canada which contained a Code of Ethics. I put that material forward so that the community could have some opportunity to simply to understand why I was proposing to move this Motion and they could have some idea of what may eventually arise from it. Of course a matter of this moment as it were in re-organisation of the Constitution of the Assembly requires a considerable opportunity for input from the community and I am most anxious for that to take place and in due course if it is simply to enable that situation to be promoted I would be seeking to have the Motion adjourned. I simply wish to bring it on to be able to have some preliminary discussion in relation to the Motion and to determine whether there appears to be some form of support at the table for this Motion. I consider it to be an important Motion. May I say that it mirrors and intends to bring into a degree of fruition recommendations made by 2 Select Committees of this House. The first of those was a Select Committee which enquired into matters relating to the elections and so forth

which was set up by the 7th Assembly in 1994 following upon the fact that the 6th Assembly as I recall it had voted itself out of existence and fresh elections were held in early '94 and not long after the Select Committee was established. It took quite some time to bring forward its recommendations. There were a number of extensions of time. They were tabled in the House in October 1995 and it is my understanding that very substantially the recommendations were accepted. There were some which were not accepted as I understand it by the Legislative Assembly but certainly the matters No. 2 and 3 which I have set out in my Motion were as I understand it accepted, that is the reduction in the number of the Members of the Legislative Assembly to 7 and their holding of Executive Office, those 7 Members and the payment of equal remuneration and the dedication to the work of each of those Executive Members by them substantially as it were giving full time attention to their duties. The additional matter which was dealt with in a subsequent Select Committee which comprised yourself Mr Speaker and Mr Smith and Mr Evans was looking into the role and responsibilities of Members of the Assembly. That took place in 1996 and certainly recommendations were made by that Select Committee that there be an appropriate charter or Constitution for Norfolk Island and the Code of Ethics from the Saskatchewan Assembly was put forward as some guide certainly in regard to the matter of the conduct of Assembly's business. Those recommendations to the best of my understanding, the best I've been able to establish weren't ever really came back for consideration by the House. I think certain matters supervened around about that time, I believe not long after they were made available there was the Grants Commission hearing and matters of that kind which seemed to divert the Assembly. So I can't say that there has been clear support advanced from those recommendations unless you Sir or Mr Smith are able to bring forward material to show that the Assembly adopted that particular recommendation. The earlier Select Committee that I referred to did indeed touch upon the question of a charter and seemed to recommend that a charter be forthcoming in due course or be compiled after proper and full consultation with the community which obviously is very fully required before such a document could be put forward which reflects the whole aspirations and desires of this community and it is my understanding also that that was not set aside as it were in their consideration of whether or not they'd approved the recommendations by the Assembly when that Select Committee's recommendations came back to it. I've not been able to ascertain at this stage the absolute certainty that that particular matter was approved, but certainly these questions have been around for a considerable period of time. I simply have brought them forward because I believe that it's appropriate that a previous Assembly of which I believe 3 Members of this present Assembly were Members approved those recommendations and one would tend to believe that they would probably act consistently with their previous approval and feel that it might still be appropriate to continue their approval of those particular matters, and I refer to matters 2 and 3. If indeed they didn't support those matters by their own individual vote well then no doubt that will emerge in the discussions on my present Motion. So far as the additional matter that I have raised in my Motion, that is the Questions on Notice it's an unusual course. It seemed to me to be one which if there were to be 7 as it were Executive Members, each having their own particular areas of responsibility in which they might endeavour in the course of the Government of Norfolk Island to reach consensus agreement about all the issues and initiatives and policies which are required properly to govern this community that there should be an opportunity for members of the community or for organisations to direct Questions On Notice to the Executive Member calling upon them to either make some form of explanation or calling them to account for some particular decision which might be felt should require some further either clarification, elucidation or change. That would seem to me to be a way in which you could have the community very directly involved in the process of Government without being unduly intrusive and nevertheless to ensure that the community, as much as the Members of this House of course take the responsibility for the Government of Norfolk Island and basically they should be able and ready to be involved in matters which touch upon the Government leaving of course their elected Members the full opportunity to represent them and get on

that they have. However that is something for the Remuneration Tribunal to determine and not for this House to determine. As far as Questions on Notice from the community, we all sit here as elected Members of this community as the voice of this community from all the different people that we represent and factions in the community or not, I know certainly in the previous Assembly when I was a non- Executive Member in those early days I had representations from persons I know didn't support me into the Assembly but asked questions in the House, and that's our role. That is our job to ask the questions in the House and to put the questions On Notice and to represent properly the people that are out there that have concerns, and I think that's being dealt with now. Yes it could probably do with some tidying up but basically I think to extend a role of an elective representative broadly out into the community like that is not appropriate in our parliamentary system. That's all I have to say for the moment Mr Speaker but I will look forward with interest receiving comment from members of the community in relation to this and other debate from Members around the table. Thank you.

MR BATES

Thank you Mr Speaker. I'm pleased that Mr Cook wants to hold this over for a little while because I think it needs further consideration. I was a little bit alarmed at the words of urgency and prior to general elections and that type of thing because I think that Number 1 in this is a fairly huge job and I noticed also with a little bit of an alarm that the Number 1 said it could only be changed by referendum but it didn't say anything and Mr Cook did allude to the fact that just to establish the suitable Charter and the Code of Ethics also needed a lot of public input but the Motion doesn't say that, it just says that you can only change it by referendum. So what is a suitable Charter, is that a suitable Charter chosen by Mr Cook or chosen by us 9 or is a suitable Charter chosen by the community. They are the questions I have there and to get the community to choose them I think is a big job. I think it's a big job for us to choose them as an Assembly. It would probably be a fairly simple job if they were chosen by Mr Cook. However once they are chosen they can only be changed by referendum and that's the point I make. Number 2 – I alluded to that a little bit earlier and I think it's dangerous if you have Executives that cannot be removed by the House. I think it leads itself to the possibility of misuse of Executive authority and the possibility of the non use of Executive authority. In other words sitting and doing nothing or abusing your powers and the Assembly being helpless to anything about it other than at election time and no doubt those that choose to abuse their position of Executive authority or choose to take Executive authority and remuneration and do nothing will be dealt with by the community in 3 years but 3 years is a long time. So I'm apprehensive about that. I do remind Members that it is the prerogative of this House to choose number of Executives, it's not our prerogative to reduce it from 9 to 7 but it is our prerogative to have 9 Executive positions here and now if that's what we wanted to do. We don't need any legislation to change that. I also remind Members, I'm not too sure of the makeup of the Executive in previous Assemblies but I do know in the 3rd Assembly we had 6 Executives and the general thoughts, I don't think it was very popular that we had 6 and I think the general consensus was that it was dangerous to have a Government that had a monopoly in the House and could not be tampered with by the backbenchers, and I think ever since the 3rd Assembly it's virtually settled down to the 4/5 syndrome. But that's not written in legislation. Any Assembly can choose the number. We can have 1,2,3 or 9 but the consensus I think has been certainly in more recent years that 4 and 5 is a pretty good mix. If you cut it to 7 and you keep that same scenario your going to have 4 and 3 so as Mr Gardner says your going to have a pretty big workloads on the Executive. So I think it needs more thought anyway. I'm not saying we've got to stay that way but I think it needs more thought than rather just simply bringing in a Motion and we're going to have 7 Executives and leave it open that they cannot be removed or run amuck or do what they like without any accountability except at election time which may be too late. Number 3 – I think is something that's not much to be said about it. I've always been a stickler for those that are Executives that it should be regarded as a full time job and they should be remunerated sufficiently that they don't, if they haven't go other means then they don't need

concerned the number of Members in the Legislative Assembly. At the present time as has been stated earlier we have 9 Members and 4 Executives but at any time we could have 9 Executives if it so desires. The problem I foresee in the 7 is, and I would say if we are appointing them all Executives that there is a possibility that 5 could be adequate but I believe that there is a need then for community participation and control over the Assembly and there are 2 means of doing this. The first is by a petition and the second is by referendum. Now it could be written into the Charter if you so desired and you had 5 Members, bearing in mind that they would all get on of course that if there was a requirement from the community in relation to any particular subject that you could have a petition brought up, an x amount of percentage of voters could trigger a certain thing happening. It may be that it goes back to the Assembly and they reconsider it or if it's a larger percentage that the issue may go to a referendum, and then from a referendum situation that there would be a decision there to be made. Now that would I believe involve the community, that's one particular aspect and I don't want to be seen as to pre-empt anything that may come out of a project that's actually in the 36 projects and that's a review of the Legislative Assembly Act. That is something that's been brought up in discussions. There are others, and we've had discussions with the ex-Members and there seems to be a fairly strong indication there that they prefer the 9 system but I don't know if they had ever considered a more of a community based or reduction of numbers based on the controls. The problem seemed to be that if you reduced the number of Members in the Assembly that the Executives would then have sole power and that is a problem. But there are as I say ways and means of overcoming that sort of thing by community involvement. I think it would be quite interesting actually to do it that way. The Executives be paid an equal, well I've got no problems with that bearing in mind what I've just said in relation to 2. The Questions on Notice I mean in the last Assembly I had quite a few questions to ask and all generally came from the community and therefore I never homed in specifically on particular aspects I might think about may effect me personally or be involved in that sort of thing. So I mean I've got no problems at all but where they are directed it may be that in the process of looking at the Assembly that you may look at an independent Speaker who is solely Chairs the meetings and in the event of something coming in as far as community participation, that person would then deliberate as to whether there was 33 and to make a decision as to the number of people and that would be independent decision of the actual membership of the Assembly. So that may be a point so therefore he would then or she or that person, gee I better be careful having 3 girls I can tell you. Questions on Notice that come in would then be perused by that person and found to be suitable or not, but I'm fully in favour of questions even now being taken by the speaker and farmed out if people wish to send them in. I mean I've got no problem with them doing it right away. So that's my point. I appreciate that it will be left on the table. I think there is quite a deal of work to be done in relation to it. I think it may be confining the discussion a little bit too much but anyhow we'll see what happens in the weeks ahead. Thank you Mr Speaker.

MR MCCOY

Thank you Mr Speaker. Some very interesting points have been said around the table in regard to the Motion put forward by Mr Cook. Personally I view this Motion with a great degree of interest and just when you look how Norfolk has evolved, how the Assembly and the Public Service has evolved since the passing of the Norfolk Island Act of 1979. We've been through many issues and I believe the legislature and parliament still has a long way to go before we do mature and to a large extent the governing process is in really I view it as an ever evolving anemone that must be flexible and accepted to change where the political democratic and community process warrant or require such changes to occur. I believe that we may be at that point again. Since passing of the Norfolk Island Act of 1979 which put Norfolk Island through the establishment of the Legislative Assembly back on our path of self government and self determination, since that time the Government as I said earlier on Parliament and Public Service as well as the community have experienced many changes and developments and of course some have been for the good and some for the not so good. In light of the

legislature different formulas for the devolution of powers and numbers of Executives have of course been tried as has already been mentioned around the table and some may recall at the outset there were only 2 Members, 2 Executive Members, there was no Office of the Speaker and those duties were being carried out the President of the Legislative Assembly who was also the Chief Minister and vacated the Chair when participating in debate. The 3rd Norfolk Island Legislative Assembly saw the number of Executive Members increased to 6 then decreasing in the 4th Assembly to 4 Executive Members which has carried through to this the 9th Legislative Assembly. On the 10th of August the Norfolk Island Act will have been in force for 22 years and I believe examining the Assembly structure and proceedings would be of significant benefit to the present status quo of continuing on the path to regaining full internal self government. Now in considering the 4 points put forward by Mr Cook number 1 talks of an appropriate Charter for Norfolk Island and a Code of Ethics for Members of the Legislative Assembly be established etc. We've heard words around the table that it would be difficult to do that or to take that task on. Mr Nobbs has mentioned that we have the Norfolk Island Act of 1979 which to some degree may be viewed as a Charter. Admittedly that Act does not need a referendum for amendments to be made to it. There is also the Strategic Plan endorsed by the 8th Assembly in 1998 and I quote from that strategic plan. "The Strategic Plan reflects our pathway to the future. It identifies what is important, what we as the Assembly propose to do, the specifications and projects that are going to be put in place and the cost in time and resource of doing it". The Strategic Plan is dated 1998 – 2003. Now I know that things change and issues that are not around today and may be of utmost importance tomorrow will always crop up but quite clearly we should not lose sight of or forget or even disregard important documents such as the 2 I have mentioned. A Charter is defined in the shorter Oxford Dictionary, English Dictionary as a written document delivered by the Sovereign or Legislature a) granting privileges or recognising rights, creating written evidence, an instrument of contract executed between man and man. At the Sitting of the 10th of January 2000 the House agreed to action the following recommendation of the Select Committee established to inquire into political interference and intimidation. That a Code of Conduct be developed for Members of the Legislative Assembly of Norfolk Island, in particular in relation to Members dealing with members of the Public Service and the community at large. Unfortunately the aftermentioned agreed recommendation has not been actioned and I guess the simple reason being that whilst it seemed a good idea at the time no one was given or accepted the task to carry that out or to develop the Code of Conduct. Thankfully Mr Cook has raised the issue of code of Conduct and I urge development of such a document but by whom is yet to be decided. I would also urge giving statutory substance to the Norfolk Island Act of 1979 that binds members of the Assembly to a Code of Conduct which I believe must have a preamble, statement of commitment and declaration of principles, and any breach of course of that Code of Conduct may warrant a Member of the Assembly vacating his office. Paragraph No. 2 talks of reducing the number of Assembly Members from 9 to 7. To achieve any reduction in the number of Assembly Members would require an amendment of course to the Norfolk Island Act which states at subparagraph 31 (2) subject to the regulation the Legislative Assembly shall consist of 9 Members. The question as to whether all Members should hold Executive office is an interesting theory but nonetheless has merit and is worthy of serious examination. On that note I attended a Commonwealth Parliamentary Association conference last May to discuss democracy in small States and one of the sessions dealt with the Executive and Legislature and during the debate it was agreed that Governments should be guided by democratic principles and that ways should be found to prevent entrenchment of Government and we've heard talk earlier how a Government where all Members are Executives could possibly become entrenched. The balance and checks to stop that lays with the people. There is one issue that we did discuss during the debate on Executives and Legislature and that is that you should have a vibrant opposition. Now whilst we have no opposition as such in our Government we have non-Executives which maybe considered by some as an opposition. I do not hold that view myself because I feel we should all be working for the better of the island and the

community. Whilst the non-Executives may provide some balance and checks on the whole it is the community who provide the balance and checks and on that note innovations such as Parliamentary committees and public hearings could encourage greater public participation and improve of course the quality of legislation. In mentioning parliamentary committees I believe when examining the concept of reducing the legislature to 7 equal or maybe 6 equal and one Chief Executive Member the issue of legislative reviews or parliamentary committees and cost implications must be thoroughly examined because I feel without having the benefit of a parliamentary committee you don't have any lynch in there and then if you don't have that parliamentary committee as has been proposed all of the work would fall on possibly the shoulders of the Speaker, and if the Speaker then determines who or what questions go On Notice that person would be in a very powerful position. Finally Mr Speaker I would like to finish off by actually saying that I do support Mr Cook's Motion in its entirety but the question still lays in my mind which is not addressed in the Motion as who will carry out the task. Thank you.

MR WALKER Thank you Mr Speaker. I'll be short on this because I believe there are conflicting issues within this Motion and it is worded in such a way that you don't have an option to either support or not support the different sections of the Motion. Whilst I might be able to support No 1 and I think that is something that should be investigated for Norfolk Island I don't know that I can support No's 2 and 3. I'm yet to be convinced on this that it is a good thing to not have accountability because it is a proven fact within the Assembly that the Minister's do not in actual fact question each other within the House, and so therefore the public only or the residents out there, our electors only hear those questions that are put by those non-Executive Members. Non-Executive Members also fulfil a role in the different boards, something that was alluded to by Mr Gardner and those are contained within our legislation at present. So the Motion as it stands asking for all necessary legislation and regulations will be enacted is a complex thing. There are many things that happen within the Assembly that are precluded from being done by a Minister, or in this case an Executive, and so therefore we would have to change all of those Acts to accommodate that Members of the Assembly could still be representative on those different statutory bodies and boards. So I think it's a complex Motion. In principle I support the idea that we should be looking at a Charter and a Code of Ethics, however I have many questions still in my mind about No's 2,3 and 4. I will leave it at that at this stage. I sincerely hope that the Motion will be left on the table to be debated at a later date.

MR BATES Thank you Mr Speaker. I just wanted to very briefly touch on something the Chief Minister said about referendum. I think nobody is denying that referendum are a very useful tool of Government, and I don't think the Chief Minister was really suggesting that you should have Government by referendum because I think that's when it starts to have its problems. A referendum is usually a yes or no to a fairly simple statement and really it's the opinion of the people, it doesn't make a law. The purpose of a referendum is really just to judge the opinion of the people, and then also the Legislative Assembly does not have to do anything about opinion but it would be pretty unwise if they didn't. The point I'm trying to make is I don't think you can really have Government by referendum when you usually have a referendum that gives you an opinion on a virtually a one line statement. Also when people vote at referendums they vote from the heart without necessarily having all the facts before them, and they are entitled to do that, that's fine but to give I suppose rather a simple scenario of what I'm trying to say. If you had a referendum that everybody on the island should get a new car for Christmas it would probably go through but when it comes to making legislation then is it going to be a diesel car, is it going to be a petrol car, is it going to be a four wheel drive car, is it going to be a 3 wheel car, is it going to have 1,000 cc's, is it going to have 2,500 cc's. Is it going to seat 6 or 7 or what is a car and I think that's where you run into trouble with referendums. The Assembly has to dot the I's and cross the T's and make laws that suit the opinion they got from the people at referendum. I'm sure the chief Minister wasn't suggesting that you

can have Government by referendum, they do have a useful purpose and it is a good purpose but I don't think we should get carried away with the fact that you can run an island simply by having plenty of referendums. I just make that point anyway for what it's worth.

MR NOBBS

Thank you. First of all I'd just like to touch on what Mr Walker said in relation to the Minister's or Executives not questioning one another. It has happened in this particular situation now and we can certainly arrange it in the future Bruce if you so desire. It is possible at this stage and as I say it has occurred. Just touching on what Mr Bates said. I think he misunderstood what the suggestion was and I'm not saying that this is the way to go, I'm just saying that things come up in dealing with that particular project which I said was a review of the Legislative Assembly Act. There are different views that come up and this view that was put up was to utilise as a control. If you reduced your number of elected Members and they were all Executives and had powers in their own particular areas that the control over them which is from an opposition point of view to put it simply could be done by the use of a citizen referendum as Mr Bates said, or a petition. I understand from what was told to me that it would not be designed as trying to run the joint by referenda but Mr Bates is right and I think if he looks at Petitions he will find that you can put down a couple of lines in a position and get people to sign it and it goes from there, but if it was a recommendation which you thought would go to a referenda then it would be spelled out in the beginning. Now the difference between a referenda and a petition is that as I said the first one really is a couple of lines, a person carrying it around explains the situation. With a referenda you have a yes or a no. You can put your arguments for both sides in a referenda arrangement and so I mean it's just a stage development of the both, that's the proposal that was put to me. I think it's worth looking at further and maybe it will then provide the checks and balances that are required if you have a smaller legislature with no 5/4 as we have at the present time. Thank you Mr Speaker.

MR BROWN

Mr Speaker I don't have an objection to the concept of a Charter for Norfolk Island and a Code of Ethics for Members but I wonder how many Members have read The Vision. As we come up the stairs, The Vision is on the wall, 1995 if my recollection is correct. We heard someone speak of the Strategic Plan 1998. There's not a lot of sense in just getting these pieces of paper putting them in a nice box with a ribbon around them and putting them on a shelf to gather dust. I've got no objection to doing it but I can't see the purpose if we don't bother reading The Vision and we don't bother reading the Strategic Plan. Similarly no decent person needs to go and read a Code of Ethics to understand how he should behave and frankly it is somewhat of an insult to Members to even suggest that such a thing is required. I'm not arguing against it but I'm saying that it is an insult to Members to suggest that it is even required. As to the number of Members reducing from 9 to 7, I'm not fussed one way or the other about that. I think for the size of our community 9 Members certainly is a lot but there must have been a reason for selecting that number in the first place. But as for having all Members Executives, that is poppycock. The Assembly in which there were 6 Ministers cut off at 6 for only one reason, they didn't like the other 3, otherwise there would have been 9. My mate Batesy can well recall, but I don't go along with that. Therefore I don't go along with three. As to the Question on Notice, this really is able to happen now, in that anyone who wants to put a question to a Minister is able to come along to any of the backbenchers and say, any chance of asking this question, and if one says no they will sure as hell find someone who will. So I'm not paying out on what Adrian is trying to achieve with this, and I'm certainly not disagreeing with his desire to have a Charter for Norfolk Island and a Code of Ethics for Members, I just don't think those things are necessary but I'm yet to agree with the remainder. Thank you.

MR SPEAKER

Thank you. Any further debate Honourable Members. No further debate.

MR COOK Yes Mr Speaker I move that the debate on this Motion be adjourned and made an Order of the Day for a later sitting of the House to really provide for the fullest opportunity to examine the matters of public input and so forth and to arrange for that and to proceed with the matter. I take into account the valuable considerations which have arisen from the discussions here at this table. So I ask that the House give me that opportunity to gather further material to be able to finally move to putting the Motion to the House when all of that is well and truly before the House.

MR SPEAKER Thank you. The question Honourable Members is that this matter be adjourned and made an Order of the day for a subsequent day of sitting.

QUESTION PUT
QUESTION AGREED

MR SPEAKER Honourable Members if you think that we will conclude this Notice Paper by 1.30pm I'm happy that we continue. If in fact you think we mightn't achieve that I do suggest maybe we have a break for lunch.

MR BROWN I suggest 2.30pm Mr Speaker.

MR SPEAKER 2.30pm is the suggested time. Is there any amendment upon that.

MR BATES 2.15pm

MR SPEAKER 2.15PM. Any advance on 2.15pm. Going once at 2.15pm. twice, done. We'll suspend Honourable Members until 2.15pm

MR SPEAKER Honourable Members we reconvene after the suspension for lunch. We are continuing Notices.

TOURIST ACCOMMODATION MORATORIUM ACT 2000 – PROPOSAL TO EXTEND THE MORATORIUM

MR COOK Yes thank you Mr Speaker. I move the Motion which is on the Notice Paper, that the moratorium provided for in the Tourist Accommodation Moratorium Act 2000 be extended under Section 8 of that Act for a further period of 6 months from the 22nd of March 2001.

MR SPEAKER Thank you. The question is that that Motion be agreed to.

MR COOK Mr Speaker I have brought forward this Motion at this stage because unless the tourist accommodation moratorium is extended at this meeting it will expire tomorrow and not be capable of extension under provisions of that Act. I do so aware of the situation that it was suggested I think when the Minister for Tourism moved the Tourist Accommodation Amendment Act recently that the imposition of a quota would render unnecessary the continuation of the moratorium. I'm not sure whether that is entirely correct or not and in light of the very strong statement from the community which came forward in the petition which was tabled prior to the amendment to that Act being carried into effect I'm concerned that we not lose the opportunity by at least having the protection of that moratorium on for 6 months to take a course which would really require in my view a complete examination of the effects of the deregulation, the legality and the essential legality I'm referring to. I'm not referring to a witch hunt about individual cases. I'm referring more to an overview of the kind of legal situation which exists so far as

conditional registration is concerned and whether or not that's in fact a valid or legal situation and if not why not and how it may be changed. I also intend to bring about a situation by in due course foreshadowing in this Motion, and not expecting that it would be brought on today but intending to bring it to the next meeting if my extension of the moratorium situation get up, or in any case not necessarily dependent upon that a Motion which would provide for an examination of the Tourist Accommodation Act so far as it's operation is concerned, and particularly in so far as it related to the Planning Act and its interaction or relationship to that Act. I am just of the view that this should be the subject of most careful examination. I'm well aware from what the Minister for Tourism has previously said that the Tourist Accommodation Act is being examined and is able to be reviewed and considered whether amendments are necessary and so forth, but I believe a situation of a select committee which I am intending to foreshadow in my Motion in a moment to the House and to the community would provide for the opportunity of a complete examination of the Tourist Accommodation Act requirements as such in the best interests of the whole community and how they should be implemented by the general operation of the select committee and it's opportunity to receive submissions and hear from people generally. So my Motion is really to bring about a situation that for a period of 6 months to enable these matters to be properly inquired into and reported back to this House, the moratorium should be continued. If I might just simply give notice of the Motion that I intend to move on the next occasion simply to enable the House to understand the situation that I have just mentioned Mr Speaker. This was the Motion that I intended to, and I'm giving foreshadowed notice of, I intend to move on the next occasion that this House sits. That this House resolves to establish a select committee to enquire into and report upon 1) the effect consequences advantages or disadvantages of the deregulation of tourist accommodation registrations following upon the resolution of this Assembly to deregulate such registrations 2) the essential legality and validity of conditional registrations of tourist accommodation houses under Section 7 (4)a of the Tourist Accommodation Act as have been made since the said deregulation came into effect. 3) any provisions that are required to be introduced into or amended in the Tourist Accommodation Act to ensure that that Act operates in the best interests of the community and its relationship to the Planning Act and other relevant legislation and further, this House give such usual and appropriate directions to the said select committee as will enable it to consider all other matters relevant to its enquiry and to function procedurally and to receive all such submissions as will assist it to report within a period of 3 months. Now may it please the House Mr Speaker on examination of the legal situation as far as I can see it, and I don't wish to give legal advice but as far as I simply read the various provisions of regulations and of the Act itself it would appear that there is considerable doubt as to whether or not there is such a thing as a conditional registration. Certificates that appear to be issuing at the present time and have now for quite a long time appear in the form that the Tourist Minister approves the construction of the tourist accommodation house. Now that might have been a situation which was required under Section 19 of the Act because a penalty of some 20 penalty units was imposed if you commenced to build a tourist accommodation house without that consent. This seems to have predated the provisions of our own Planning Act in which, obviously the Minister responsible for that with the Planning Board has certain rights to say whether or not a building will be constructed and so forth, and that provision was removed out of the Act in 1997 and Section 19 was actually deleted. Obviously it was then considered that there was a conflict or some kind of situation developing between the Tourist Accommodation Act and the Planning Act, but what my concern is that all conditional registrations certainly before that time and since that time have been in the form of an approval to construct a tourist accommodation house and certainly not an approval to have the tourist accommodation house registered. There's a number of forms which were prescribed earlier which have been repealed by regulation and no other forms have replaced those and there's some alleged prescription as it seems that allows the Minister to approve a form and that is said to be a sufficient prescription of a form under the terms of the Act. These are matters which I believe require careful examination. I believe an

appropriate way of dealing with it and meeting the concerns of the community which was so clearly expressed to us about the whole tourist accommodation situation could be best done by a select committee and that's why I foreshadow that I intend to bring that Motion forward at the next sittings, and I have simply asked that the tourist accommodation moratorium be extended for 6 months so as to accommodate that situation envisaging that an enquiry and report could and should be able to be completed in all the circumstances within 3 months.

MR SMITH

Mr Speaker Mr Cook has a concern with the quota. My legal advice has been that the quota really wouldn't allow for any more applications to be processed while that quota is in place in the Tourist Accommodation Act, however I really don't have any difficulty with the Motion myself today because if there is concern, it will probably be all fixed with the amendments we're going to make to the Tourist Accommodation Act which I hope to have for the next sitting as I mentioned in the last sitting which would remove all the references to conditional registrations etc that has caused such a major dilemma in the community. If I was to be able to get that up in the next sitting or get it ready for the next sitting I guess what we could do with the Moratorium Act which would become redundant I guess at that point in time was we could always make that part of the introduction of amendments to the Tourist Accommodation Act that we could actually rescind this Motion. I don't see any difficulty with it sitting there in the meantime so I do support that. The matter of the select committee, THE Member has already talked to me along the lines of a select committee to look into the deregulation of the tourist accommodation industry since 1996 I think it is, and there's really 2 options with that I guess. One is that Mr Cook or Members of the Assembly could issue questions to me as Minister or to the Government even to along the lines of where there are questions that are in Mr Cook's mind or wherever they are coming from to ensure that everything has been done appropriately with the tourist accommodation applications and approvals in the four or five years that they've been around. That would be a simplified method of dealing with the issue. On the other hand with the select committee it would give those people in the community who keep raising concerns about tourist accommodation would give them a chance to appear before a committee, a committee of the House to raise their issues and as long as in the end the intention of the select committee wasn't to, and I don't think it's Mr Cook's intention that it is to attack any particular properties that have gained approvals over the last 5 years. If it does raise issues and if there is anomalies that have occurred through nobody's fault if you like that if there was such a thing that they would be fixed up and so it couldn't happen again, but as Mr Cook said he's just advising us that he's going to look at that Motion at the next sitting. I'd like more time to think about that part of it, having a select committee. It would be interesting to see who is on it. There's a few of us that wouldn't be able to participate in it. I certainly couldn't and Geoff couldn't. I suppose Bruce couldn't. Anyway that's not an issue for today. I'd need more time to think about the select committee idea but as far as the moratorium goes I don't have any difficulty with it being extended. It makes no difference to me.

MR WALKER

Thank you Mr Speaker. I'm not sure whether this moratorium needs to be extended or not but and I would like to hear some specific reasons as to why we should from the Minister. However of more importance I feel is that the moratorium was put in place under the auspices that an examination and a report would be done on the impact of tourism on Norfolk Island. That was the premise on which it was put in place so that we could have a pause and examine the impact of not only tourist accommodation but tourism in general on Norfolk Island. I have asked repeatedly as other Members have of the Minister as to what progress has been made on this report. We were assured that for the March meeting this year that report would be brought forward. I am as yet unaware of any report that has been either commenced or taken to public consultation or tabled in this House for us and we are now at the March meeting. I would like to ask the

Minister whether any progress at all has been made on that report and when we might expect it to happen.

MR GARDNER Thank you Mr Speaker. I was just wondering if there has been any consideration given to an unintentional impact of extending the moratorium and that by doing that if the quota hypothetically were to be lifted in 6 months that we are only favouring those that already have secured conditional registration. Maybe the Minister or Mr Cook might be able to shed some light on that matter.

MR SMITH In answer to Mr Walker's question as I said it makes no difference to me whether we as far as I can see whether we agree to this Motion or not today because my advice has been that with the quota in place it would be fruitless anybody trying to apply or make an application for a new application under the Tourist Accommodation Act. The second part that Mr Walker has raised again, he raised it at the, not the last sitting but the sitting before. We had 2 or 3 in a row about whether the report had progressed anywhere. Well it had. In fact at one of the last sittings I went down to my office and brought up the information and Mr McCoy had asked the question, I gave him the information, I may even have it here with me to show where action was being taken on the report. The thing that really stopped us going any further with it was the quota Bill which became the Quota and Registration Act. So there was no point in going any further for that particular purpose.

MR BROWN Mr Deputy Speaker we cannot continue to govern by moratorium, and that's what we are doing. Time and time again we don't get around to doing the work or at least the Executives don't and then someone comes along to us be it a recently retired Executive or a present one and says oh goodness gracious me let's pass another moratorium. I've not seen any evidence that anything significant has been done to preparing the reports which were to be presented to the House as a result of the initial moratorium being passed. Now I should stop here to bore you all by again declaring my pecuniary interest. I do have an interest in a tourist accommodation property on the island but what I am saying is not related to that, it's related to good government because we are doing this time and time again. We have a problem so we try to impose a moratorium. I'm not going to support this today because I think that it is time that the Executives actually finished a few things and stopped just talking about it. Thank you.

MR NOBBS Thank you Mr Deputy Speaker. I'll be supporting the Motion irrespective of what Mr Brown says in finishing or not finishing. I don't believe that the tourist accommodation amendments have been completed. I've got some questions with Legal at the present time from as in my role as Acting Planning Minister which I need some clarification and they've been a bit tied up on other things so they haven't been available and therefore I would appreciate this being extended at least until we clarify and finalise the amendments that are proposed that the Minister just spoke about in relation to the Tourist Accommodation Act, and I think at that time it could possibly be taken off. Thank you.

MR BUFFETT Mr Deputy Speaker I am not in favour of continuing with moratoriums. I think we need to be more progressive about doing things in lieu of trying to stop things. I do recognise what the Chief Minister has just said. Now I don't know the detail of all of that but he is rather signalling to us that maybe there are some things that are still outstanding and are important and need to be finished. I would be surprised if they would take 6 months. So if in fact there is a need to continue the stay, in other words the pause, the moratorium for a period to allow something to be done I would listen to that but I would not listen to it for 6 months. I would prefer that that be a much shorter period and there be given an impetus to clear up the outstanding matters so that we get on in an active governmental way in lieu of trying to build barriers for everything. I think

we have done some significant work in the tourist accommodation area. I'm not trying to say that it pleases everybody but we were called upon to make some decisions and we endeavoured to make the best we could within that time frame. If those who have responsibility for those areas say that there are still some outstanding matters and there is a proper reason for those equally to be attended to, I would listen to that, but I think one needs to have a more realistic time frame and some impetus to complete them, and I would prefer that in lieu of 6 months we have 2 months, and I would move accordingly. I would move accordingly that the period of 6 be deleted and a period of 2 be inserted in the Motion that is in front of us.

MR SMITH Mr Deputy Speaker I'm just not quite sure what's going on here. We had an issue with tourist accommodation over the last few months where I had the impression that almost without exception the Members of the Assembly did not want us to accept, or over the last 12 months, to accept any more new applications for tourist accommodation. We did that with the Moratorium Bill in the first place, it didn't keep out the one's that already had conditional registration and we made changes so that others could stay in at the changeover period at the end of July, but am I hearing a different thing. Am I hearing a different view around the table that people don't actually want us to stop any new applications. I would like firstly Mr Brown to clarify what he's talking about there, and I don't mind if he does even though as he says he has accommodation, but if what we're saying is well we shouldn't be having a moratorium that we should be accepting more, more on top of what we've already got, more applications for tourist accommodation I'd really like some views coming from around the table about that.

MR BROWN Thank you Mr Deputy Speaker. I'm not sure what the Minister has had to drink for lunch but if he didn't understand what both Mr Buffett and I said then I'll say it again for him. I think what we have both said is the Government by moratorium is totally inappropriate. If the Minister's come along to us on one occasion and say listen we've been a bit lazy, we haven't sorted this out, we'd like you to agree to a moratorium for a period, generally there would be an amount of sympathy around the table, but if after 6 months you haven't made even a realistic start on the promises you made at the time the moratorium was granted then you should not expect us to again support you. I've said I'm not going to support you at all. Mr Buffett has said he might listen to 2 months.

MR BUFFETT I invite the Minister to correct me if I have got the wrong end of the stick on this matter, but as I understand the situation the Assembly has made arrangements in respect of tourist accommodation that it will no longer allow to be approved anything outside those things that we specified when we last addressed this matter, and that's where it is. We have drawn that line. That's my understanding of it. I therefore see that this Motion is really superfluous but I am willing to be corrected if in fact that is the case, but after that understanding came across my mind the Chief Minister then mentioned just two and a half minutes ago that he considered that this was helpful to allow some matters that he had recognised and identified to be done. So if that is his case I am willing to hear what he has to say and I would not want to be unreasonable about that but I would ask that he might try and tidy those matters in a shorter time frame than the 6 months that is suggested here, and I am suggesting 2 months. Now if I've got all of that wrong I invite the Minister or anybody else to explain that to us but let me just repeat it again. We made arrangements around this table to draw a line, after we've considered all of the groups of tourist accommodation and that none would be approved outside that situation. If somebody applied then they couldn't be approved because that's what we've decided, and that's where we are. Therefore if they can't be approved I'm not too sure how more helpful this particular Motion is but there may be some magic that I do not see, and again to be repetitive but notwithstanding that the Chief Minister has said that I've got a couple of things that are outstanding and this moratorium arrangement would help me put them into place or

get them all done, and I for my part am willing to listen to that and provide a period of 2 months for him to tidy it. That's as I see it.

MR GARDNER Mr Deputy Speaker superfluous was a good choice of words because that's exactly what this is. We've heard from the Minister responsible for Tourism that his legal advice, and he's given that advice to this House is that the concerns about the tourist accommodation moratorium are now dealt with under the legislation that went before this House a couple of weeks ago. So there is no need for a moratorium because nobody can get conditional registration. That begs the question, yes certainly the Chief Minister's got a couple of matters before Legal that need clarification but there's nothing before Legal that needs clarification that's going to allow anybody to be able to sneak under the gate anyway. So I just wonder why on earth we are having the debate. There is no way that somebody can get conditional registration but I think the responsible Minister's got some remarks to make on that and I await those remarks and comments.

MR COOK Mr Speaker I was just going to make the observation that as I understood the effects of the Moratorium Act that prevented the acceptance or consideration of new registrations applications during the period of the moratorium but what I've heard so far is the question of whether approvals are granted. I doesn't stop if the moratorium is extended, it doesn't stop people making the applications. It might be suggested that that's just a useless exercise because they are unlikely to be approved but it doesn't stop them making the applications.

MR SMITH Mr Deputy Speaker a few issues. Mr Cook is right but that somebody can still apply if the moratorium is not in place but it would be impossible to approve the application with the quota. The reason I thought well ok the Motion is surplus to what we really need, however what I was thinking well it's been raised, maybe some people that are not sitting around the table here who might be thinking well we would be reassured if such a Motion went ahead that you know it's still in place and that's what I say. It doesn't make any difference to me whether it's passed or not. However the other issues that are starting to come out I'm really interested in. I've had 2 Members who have said that the Minister for Tourism has been lazy, he hasn't done his report that was supposed to be on the table. I don't remember anything about having a report having to be tabled but that's beside the point. The appropriate action was taken with that. Of course as all Members sitting around the table here knows that if there's an issue that is to be decided or it needs advice on it goes to the appropriate place. It had gone to the appropriate place which is the Public Service, that was being developed. I had brought the papers to the table, it had been discussed at MLA", the informal meeting where obviously some Members don't listen as happens with so many issues. I have brought it before

MR BROWN Point of Order Mr Deputy Speaker. To such extent as the Minister is making distasteful comments about Members, it is in contravention of our Standing Orders and the comments should be withdrawn.

MR SMITH What Standing Order is that.

MR DEPUTY SPEAKER Thank you Mr Brown. I believe you are referring to Mr Smith's comment about Members not listening.

MR BROWN That's the case.

MR DEPUTY SPEAKER And I look to Mr Smith to see if he feels comfortable by removing those words from his discussion.

MR SMITH It is difficult to actually do that because we all know that Members don't always listen but I'm quite happy to remove or strike from the record where I did say that Members obviously haven't been listening. I don't have any difficulty with removing that. However let's pass on from that. The report was being developed, the last information I gave to a Member and I think it was Mr McCoy at the time was where the instructions had all gone for, they were waiting for further advice from all the different departments of the Administration. In the meantime we came up with the Tourist Accommodation Quota and Registration Bill which really in effect took away most of the needs of that report. We can still have a report that says this is what has happened in the past but the reason for having the report in the first place was for the Assembly to assess whether or not we were going down the right track with tourist accommodation. Now if I got the report that said that now well we've already taken action along those lines. But maybe there is more to this issue and Mr Brown is a bit cranky with since he came back from lunch. I only had a cup of tea for my lunch.

MR BROWN Point of Order. If the Minister is casting aspersions against Members it is totally appropriate and it's time that he be named.

MR SMITH Mr Deputy Speaker I made no mention of any other Member. I said I had a cup of tea for lunch. If Mr Brown takes offence at that maybe he should move away from the table.

MR BROWN I press the Point of Order.

MR DEPUTY SPEAKER Thank you Mr Brown. I'm just referring to the Standing Orders to see if there is actually a Point of Order and I believe your under Standing Order 62 – personal reflections. All implications of improper motives and all personal reflections on Members shall be considered highly disorderly.

MR BROWN That's the Standing Order.

MR DEPUTY SPEAKER Thank you Mr Smith.

MR SMITH If your ruling that I'm not too sure why but that's ok. It doesn't make any difference to me.

MR BROWN I ask that the comment be withdrawn Mr Deputy Speaker.

MR SMITH Mr Deputy Speaker I'm quite happy to withdraw the remark that I made that I had a cup of tea for lunch, if that will make Mr Brown happy. Stupid but I'm happy to do it.

MR BROWN I raise a further Point of Order. The Minister has just used the word stupid, referring to a Member. It is clearly in contravention of Order 62 and is time that he be named.

MR SMITH Mr Deputy Speaker the stupid was referring to myself and I'm not objecting to myself doing it. Mr Deputy Speaker the issue

MR BROWN I press the Point of Order Mr Deputy Speaker.

MR DEPUTY SPEAKER Thank you Mr Brown but I don't see that there is a Point of Order in calling yourself stupid or referring to the fact that he had a cup of tea for lunch.

MR SMITH Thank you Mr Deputy Speaker. I think what is becoming an issue here and it's something Mr Brown may or may not be referring to, the only people that would be effected by this particular Motion today may or may not be 2 properties that did not fit into the quota at the last sitting. Now if that is the case I stated at that time, there was a difficulty with that at that time but that can be taken up as an issue at a separate time. If Mr Brown, and I hope he's not is referring to

MR BROWN Point of Order again Mr Deputy Speaker. The Minister is clearly making a personal reflection in relation to myself. I can take my own court actions in relation to what he's talking about but I ask that these continued personal reflections be brought to an end.

MR DEPUTY SPEAKER Thank you Mr Brown and if it would help to continue the debate if you could refrain Mr Smith from making personal reflections.

MR SMITH I'll move on with it Mr Deputy Speaker. We've got far more important things to be worrying about than the words I use and I do get words wrong sometimes and if that and I'll try and avoid that. As I said earlier on the Motion, it doesn't make any difference to me if members feel unhappy supporting it, I'm not unhappy about that. Mr Cook might feel differently about that. If it passes I said before that when we bring the amendments in for the Tourist Accommodation Act at the next sitting that we'll probably pick up most of the issues anyway. So it's not going to make an awful lot of difference. Thank you Mr Deputy Speaker.

MR DEPUTY SPEAKER Thank you Mr Smith.

MR GARDNER Thank you Mr Deputy Speaker. Again I need to go back to the word that the Minister for Immigration and Community Services used before, superfluous. We're arguing here about not accepting any more applications for these sorts of things. If we're going to extend this moratorium we need to impose a moratorium on the Planning Act so that no applications under the Planning Act can be received for a 15 storey hotel because there is nothing in the Planning Act that prevents you from accepting and receiving such an application other than the law and the plan, and the plan and its attendant legislation would prevent that from going through simply because it falls outside the guidelines of the plan but it doesn't prevent a situation like that in accepting it. There's something else further down the track that would prevent it from happening. It's no different to applying for a firearms licence knowing that you've got a whole list of convictions behind you and that you're a rampant raving lunatic, you can still apply for your firearms licence but there is something further down the track that's going to prevent you from getting it. That's why I think this is superfluous. I can't see for the life of me what it achieves. It's been dealt with, the Minister's told us it is being dealt with by the legislation that went through the House at the last sitting. I'm comfortable with that. If that's proved to be erroneous and the Minister's mislead the House we'll have to deal with that on another occasion.

MR DEPUTY SPEAKER Thank you Mr Gardner. Further debate.

MR NOBBS Thank you Mr Deputy Speaker. The situation is that I understood from the Minister when he spoke before I did that he was looking at bringing in further to finalise the tourist accommodation amendments by next meeting and they'd obviously be sitting on the table for a month and discussed so that the proposal put by the Speaker or Mr Buffett is that it be for 2 months. Now I've got no problems with that. If we can tidy the whole thing up and get it out of the way and I still have some concerns and I'm not saying what it is because I don't want to get my head bitten off by Mr Brown because I'll have to bring personalities or people into it.

MR BROWN Point of Order Mr Deputy Speaker. Again Standing Order 62 has been infringed and I ask that you keep order in this House and bring that kind of behaviour to an end.

MR NOBBS The other thing is

MR DEPUTY SPEAKER Thank you Mr Brown and please Mr Nobbs if you could refrain from using anything that may cause conflict in the House.

MR NOBBS That's the situation now, that I feel as though we go ahead with the 2 months and leave it as such. I mean it doesn't hurt, and it will I believe clear up a lot of things and there are some concerns I believe in the community and my questions that I have in relation to legal advice that I've sought now came from the community itself, and I think that we should leave this sitting for the 2 months as proposed by Mr Buffett.

MR DEPUTY SPEAKER Thank you Mr Nobbs.

MR BUFFETT Mr Deputy Speaker I think a number of areas of question marks have been raised. I would like to formerly move that we delete 6 and insert 2. That will give a breathing space for those who have queries in their mind as to some aspects and if there is a time frame to complete things, to actually complete them and that we do that forthwith.

MR DEPUTY SPEAKER Thank you Mr Buffett. So much that leave is required Mr Buffett leave is granted.

MR BUFFETT Thank you, and if that is the amendment that is front of us I move that we vote upon it.

MR DEPUTY SPEAKER Leave is granted.

MR GARDNER Mr Deputy Speaker I'm still not clear in my own mind exactly what this is achieving.

MR BUFFETT I understand Mr Gardner's concern. It is one of the reasons why I am suggesting that there be a 2 month period to allow some people to sort it out, if there is something to be sorted out. If there is something to be sorted out. It's quite unclear in my mind whether there is but some people are putting forward that there may be, and I'm trying to give them an opportunity if that is the case. I'm giving them the benefit of the doubt.

MR DEPUTY SPEAKER Thank you Mr Buffett. Is there further debate on the amendment gentlemen. There being no further debate then I put the question that the amendment be agreed to.

QUESTION PUT
QUESTION AGREED

MR DEPUTY SPEAKER Mr Bates, I abstention. The Motion reads that the moratorium provided for in the Tourist Accommodation Moratorium Act 2000 be extended under Section 8 of that Act for a further period of 2 months from the 22nd of March 2001. Is there further debate. I put the question that the Motion as amended be agreed to.

QUESTION PUT
QUESTION AGREED

MR DEPUTY SPEAKER

Mr Bates, 1 abstention.

IMMIGRATION AMENDMENT GUIDELINES BILL 2001

MR BUFFETT

Thank you Mr Deputy Speaker. Mr Deputy Speaker I present a Bill for an Act to amend the Immigration Act 1980 and I move that the Bill be agreed to in principal.

MR DEPUTY SPEAKER

Thank you.

MR BUFFETT

I table the Bill and I table its explanatory memorandum Mr Deputy Speaker. Mr Deputy Speaker at the February sittings I mentioned the forthcoming introduction of this Bill. It is a Bill to allow statutory policy guidelines in relation to immigration matters. There are many difficulties associated with the earlier policy guidelines and one of them was that they did not have statutory basis. This particular piece of legislation which is not lengthy, it's just some 3 pages provides guidelines to have a statutory basis. There are 2 parts to this. One is the making of the legislation and the other is the provision of the guidelines themselves. I am first addressing the introduction of the legislation. It introduces the provisions that there can be policy guidelines given statutory substance. It gives a parameter for them and it provides a machinery in which they come into play, and that's the basis of this piece of legislation, and I present it to the House and in a short period of time I will move that it be adjourned so that it can sit on the table for a period and we then tackle it at another day, but at the same time as I do that I seek your leave Mr Deputy Speaker that I might table also the draft statutory guidelines which will in due course accompany this piece of legislation. Now the statutory guidelines which are part of the circulated document is not in its final form. I stress that Mr Deputy Speaker. It is not in its final form. It still needs to complete a range of consultative arrangements. It has gone to the members of the Immigration Committee. It has been circulated of course to Members here. I just foreshadow that at the next meeting of Members I will be asking Members if they have any comments to make in respect of it, and a programme of consultation like that will continue until it comes forward again at the April sitting. Hopefully we will be able to refine that document and I compliment the Legislative Draftsman who has drawn together a number of views and thoughts from a number of areas to put together the document that we see there now, so that we may use it as the commencement of our discussions. So again in a nutshell this is a piece of legislation which will provide for statutory guidelines. The Immigration Committee and many others have sought this particular measure, and accompanying it is the first draft of those guidelines. I commend this to the House and I'd be interested if any others have anything to say upon it before I move its adjournment.

MR DEPUTY SPEAKER
and guidelines.

Mr Buffett you has sought leave to table the policy

MR BUFFETT

Yes

MR DEPUTY SPEAKER

Is leave granted. Leave is granted

MR BATES

Thank you Mr Deputy Speaker. I congratulate the Minister for bringing this forward. It's been around for a long time. Immigration is a difficult subject as we are all well aware because you are dealing with individuals. I note that the Minister did say that the statutory guidelines were incomplete or still needed some more work and he says he'll give us the opportunity to discuss those between now and the next

meeting but I would just like at this stage to ask the Minister if he would have a closer look on Page 8, paragraph 4.7.3. My understanding is that that's really saying that an applicant for a TEP can't get a permit to commence a new business. My understanding of the new business rule is that I cannot employ a TEP for me to start a new business within the first 5 years. If I started a new business I must use local people or myself to establish that business for the first 5 years. I don't think that's quite how it reads but it's my understanding that's the purpose behind it that it means that somebody just can't go and start for instance I couldn't go up the road and start a firm of accountants in opposition to present accountants and bring in 3 accountants on TEP's to operate that business, because I would be competing with established businesses on the island and the purpose of it is to stop that from happening. If you want to start a new business you get on and work it yourself where you use local people to establish it. You do not establish it through the use of TEP's, and I think the Minister knows what I'm saying. I'm not sure that that fits the bill correctly and I just ask him if he'd have a look at that for me.

MR GARDNER Thank you Mr Deputy Speaker. Just in relation to that. Brian I think it's important for some of the local development that's going on, on the island for in fact if this is adopted I think those businesses under five years of age would have difficulty in employing any further TEP's if that was how this was looked at, and I don't need to refer I think to the major development I'm talking about that that could put the viability of that business in significant jeopardy if that was to in fact be the purpose of these guidelines. I've only, I think like all the other Members have just received these in the last 24 hours or so and so haven't really had time to sit down and go through this in any detail and other than to say at this time I think that we all welcome the introduction of this to the House and certainly there were a lot of people that are to be commended on the bringing of this matter to the House. The present Minister for Immigration, his predecessor and certainly a lot of Officers and the Immigration Board have been involved in that too, and they are to be commended for as I say bringing the matter to the House. There are only a couple of minor concerns that sort of stand out at the moment and that's to do with health requirements. We'll go through those in detail but my understanding of how these would apply is that if a decision is made by a Government Medical Officer and passed onto the Executive Member, the Executive Member would make his decision in relation to an immigration application and then the only way that that is going to be reviewed is by the Commonwealth Minister. If for some reason I think we're all pretty conversant with the fact that a lot of people seek second opinions from Medical Officers that it may be appropriate to insert some sort of review mechanism in there is an applicant disagrees with a Government Medical Officer's opinion that they may be entitled to go out and seek a second opinion on that, but that's only my preliminary look through the paper and I look forward to further discussion on this matter over the next month. Thank you.

MR COOK Yes Mr Deputy Speaker. I just simply wanted to say I commend the present Minister for Immigration as the previous Minister dealing with Immigration matters I'm well aware of the difficulties in the lack of precision and definition and in many instances legal backing for some of the matters which had to be dealt with and I think this will make things abundantly clear. I certainly commend the Legislative Counsel and all those others who have assisted in presenting this material to us for our consideration. I'll consider it most carefully and again I make that point and support Geoff Gardner in his commendation of all those who have assisted in the matter.

MR WALKER Thank you Mr Deputy Speaker. I would just like to go one further than what Mr Bates has brought forward and refer the Minister to Page 11 numbers 5(2). If you compare the conditions for a new business proposal put on a General Entry Permit with that put on a Temporary Entry Permit you will find that it is quite harsh on the General Entry Permit holder as against the Temporary Entry Permit holder and I think

that maybe it should be reversed. However, like Mr Gardner I only received this yesterday and I would hope that we can discuss it further at other meetings.

MR BUFFETT I was just going to acknowledge those four comments but if there were others I should not interrupt at this moment. Well Mr Bates, Mr Gardner, Mr Cook and Mr Walker have all raised comments and I thank them for those and I've made a note of those things that have been said at this time and acknowledge them but do again say that after you've had an opportunity to examine in detail I would certainly welcome further opportunity to discuss those provisions and I've noted the comments that you've made to date. Thank you.

MR BROWN Mr Deputy Speaker could I refer the Minister to Page 6 para 4.2b and just point out that that may be inconsistent with some of the other policies. This particular paragraph refers to someone who's obtained a TEP and has started a new business which doesn't appear at first glance to be consistent with the purposes of a TEP, but I join with those Members who have said that this is a pretty good effort because it's something that I've been keen to have happen for a long while and there has been indeed a lot of work required on the part of the Legislative Counsel to get it to this stage and he's done well to manage to finish it.

MR BUFFETT Mr Deputy Speaker I move that this matter be adjourned and made an Order of the Day for a subsequent day of sitting.

MR DEPUTY SPEAKER I put the question.

QUESTION PUT
QUESTION AGREED

NORFOLK ISLAND BROADCASTING AUTHORITY BILL

MR BROWN Mr Deputy Speaker Mr Smith seems to have gone home. Could I suggest we move to No. 8.

MR DEPUTY SPEAKER Point of Order Mr Brown. Standing Order No. 62. Mr Smith we are at Notice No. 7 The Norfolk Island Broadcasting Authority Bill 2001.

MR SMITH Thank you Mr Deputy Speaker. I present a Bill for an Act to establish the Norfolk Island Broadcasting Authority and to make provision for the licensing control and regulation of both audio and visual broadcasting for the purposes of radio and television within the Territory of Norfolk Island and for related purposes and move that the Bill be agreed to in principal.

MR DEPUTY SPEAKER Thank you Mr Smith.

MR SMITH Mr Deputy Speaker in the explanatory note it explains about the things in the Bill, it provides that it will be an Act that does not bind the Crown except in specific sections where stated. It provides for the application of the Act to Norfolk Island and places the applicable Commonwealth legislation into the context of the Act. At the same time it differentiates the Norfolk Island Government Broadcasting Service from any category controlled under Commonwealth legislation. It establishes the current Norfolk Island Government Radio Station as an essential Government Broadcasting Service. It establishes the Norfolk Island Broadcasting Authority and outlines its procedures, outlines the objects, functions and powers of the Authority to administer and to control the licensing of broadcasting services in Norfolk Island. It requires a broadcasting service to be licenced and establish an offence and penalty for operating without a licence.

This does not apply to the Government Broadcasting Service. It outlines the mechanisms for the issue of a licence, the payment of a licence fee and the revocation of licences. It outlines the development of a range of broadcasting rules which can be made by the Authority and with the approval of the Assembly. The Government Broadcasting Service will be bound by those rules. It provides a mechanism whereby the Authority can investigate complaints and enforce its determinations. It provides a standard immunity for Authority members in exercising their duties and functions. It gives the Crown standard immunity from compensation claims arising out of the Act. It provides that fees and monies recovered under the Act shall be treated as general revenue. It enable a review of the decision by Authority, binds the Crown to rules gazetted by the Authority, provides for making of regulations and provides a transitional period for compliance with the Act within 6 months. Mr Deputy Speaker as I foreshadowed at the last sitting I table the Bill at the last sitting, I'm introducing it at this one, it will sit on the table for public comment and Members comment if they want to comment further. The Members have already had an opportunity to make comment and those comments I think have all been included in what we've got here and I look forward to debate on it, not necessarily today but certainly over the ensuing weeks and so we can get the Act into place possibly at the next sitting. It's been a long time coming in the fact that we've never had one and I commend the Bill.

MR GARDNER

Thank you Mr Deputy Speaker. Just a couple of brief comments. One I note with interest the covering sheet to this Bill that was provided to us again in the last few days and it's the second paragraph of that cover sheet where the Minister considered there was some urgency to develop this legislation in view of a couple of Commonwealth Act and both of those are dated 1992. I just find it a bit interesting that it's taken something like 9 years before we've decided to act on it and considering that the current Minister for Broadcasting was also the Minister for Broadcasting in the previous Assembly. It's just an observation. However I move into the body of the Bill itself. On a couple of previous occasions I did raise some issue with parts of it. One of those was the perennial problem that Mr Bates seems to have with the costs of legislation that go through this House and we did ask and raise that. I still haven't yet seen an indication as to what the cost of implementing this piece of legislation will be to the community save for maybe that it could be used for a source of revenue by the penalty provisions that are provided within the body of the Bill but other than that I don't see anything. There is reason to expect that there will be costs because I do note again in the body of the Bill under the Broadcasting Authority that the Executive Member can authorise the provisional recruitment of such reasonable secretarial or administrative support as is necessary for proper and effective functioning of the Authority. That will come at a cost. People don't do those sorts of things for free these days and I think it's important that that be noted. There is also another concern that I've had again these are only my preliminary observations of the Bill and that concern was with the establishment of the Authority in that the only role that the Legislative Assembly

Appear to have in this are with the recommending suitable persons to be deputy's of members of the Broadcasting Authority. There is some area of concern here in that if it is expected that the Executive Member is going to convene this Authority and the Executive Member as the Chair of the Authority is going to have a casting vote in split areas which really there is the potential for this Authority, certainly just to be the private bodyguard of the Executive Member. That causes me some concern and maybe that needs further discussion with MLA's at other meetings, at other informal meetings to clarify some of those situations. As I've said we've only had this for a few days and we haven't as a body had adequate time to deal with in any depth with this Bill. Thank you.

MR BROWN

Mr Deputy Speaker I'm sure that Members would be interested to ascertain just how it is that this Bill crept up the list of legislative priorities. I don't recall having seen it at the top of the list of priorities and as I said I'm sure Members would be interested to know just why it was that this has occurred. I don't have a problem

with the Bill itself but I do have somewhat of a difficulty with the fact that drafting time has had to be spent on this matter when perhaps far more important matters have had to wait. Thank you.

MR SMITH Mr Deputy Speaker I can answer some of the questions that are being raised about this. As far as costs I spoke to the Legislative Draftsperson in a discussion we tried to ascertain what costs there may be any more in this Bill than there would be with the previous one that's just been tabled for example. Mr Gardner is correct if the Board was chosen to have some secretarial support for their meetings we'd probably be up for the cost of somebody to do that. The rest of it we couldn't really see where there was going to be any other impact on the budget as such. Of course there is always time consumed at these types of meetings and that has a cost even though it doesn't necessarily get charged to the Government. It's a cost to somebody. The question Mr Brown has raised about how it got onto the priority, it was one of the first things that I had raised on becoming an Executive Member for Broadcasting at the beginning of this Assembly that I wanted to see a Broadcasting Act put into place. That was requested of the Service quite a long time ago. I don't know exactly when. It went onto the legislative priority. Events overtook what I was doing. There was a station that advised us that they were going to start up broadcasting on Norfolk Island. We really had no ability to actually stop them. It was only through their goodwill in the end through me saying do you mind if you don't, and they haven't pursued what they were going to do. They did broadcast actually for a little while on a trial basis, but we had no legislative control over that of licensing any particular station. So it did make it become more urgent and the Bill is now with us. It's a good piece of legislation and as I said if there is other concerns that Members have it's going to be around for a few weeks for Members to raise any of those issues or change what they feel they want to change in this particular Bill.

MR NOBBS I just wanted to clarify something. I thought that Mr Gardner said that there was an appointment of Members of the Broadcasting Authority the Legislative Assembly only had some powers in relation to deputy's of Broadcasting Authority but I just draw his attention to 7 (2c) which four other members nominated by the Executive Member with the approval of the Legislative Assembly. Isn't that the normal we use, bearing in mind that they would obviously be voting whereas the Manager of the Government Broadcasting Service is a non-voting member of the Authority and the Executive Member responsible for Broadcasting is also a member.

MR GARDNER Just one other matter. The Minister has endorsed the fact that there may be a cost attached to secretarial services for the Authority. However the other matter of concern that I raised with the Minister the other day had to do with Section 19 of this Bill which was the decisions of the Authority subject to review by the Administrative Review Tribunal and I raise the concern there in that I think that all Members around the table are aware that the ART as it's referred to has in one instance as far as the dealing with the review probably cost in excess of \$18,000 to date to this community and substantially more to the applicants and bits and pieces. Now those are real costs. It's really just trying to get a grasp on a realistic expectation as to what we can expect to be the cost from these sorts of things. I know these things that come out of the woodwork from time to time but is there a realistic expectation that maybe the ART would be utilised in what instances and is once in a hundred year event, those sorts of things I think would be very useful to people sitting around the table.

MR WALKER Thank you Mr Deputy Speaker. I note with interest that the Manager of the Government Broadcasting Service is a non voting member although is a member of the Board and would be in competition with other authorised broadcasting services, I imagine. This is sort of to me anyway indicating, and I'd be guided by the Minister that's indicating that the Government Broadcasting Service has an integral

part to play along with the Board of this Broadcasting Authority. However I see over on page 9 under section 18 that all fees payable or monies recovered under this Act shall be monies of the Crown payable to the general revenue fund, and I just wonder if there's an integral association there with the Government Broadcasting Service or whether they are entirely separate entities because when I was listening on one occasion and the Minister was speaking I'm sure I heard him say that we were going to move towards a decline in the subsidy for the Radio VL2NI and increase its self sufficiency by their dependence on their own funds. So I'm hoping that his answer is going to be that these funds here are purely funds of the Broadcasting Authority and that VL2NI is a separate identity.

MR BATES Thank you Mr Deputy Speaker. Yes I've been having thoughts a little bit similar to what I think Mr Walker's trying to say and I remain a little bit unclear about the relationship between the Authority and VL2NI. As I understand it VL2NI is owned and operated by the Government and the Radio Station Manager is an employee of the Public Service. Now does it envisage under this that the VL2NI, that the boss of VL2NI will be the Authority and that the Radio Station Manager will be working for the Authority and that will no longer be part of the Public Service because no person can work for 2 bosses. It puts an impossible situation. So it needs to be established who the Radio Station Manager works for. Does it work for the Government as a Public Servant like the way it is at the moment or does it work for the Authority which must be a statutory authority similar to the way the staff of the Hospital work for the Hospital Board. Now I think that certainly needs clarification because you can't have it both ways. You can't be an employee of 2 controlling bodies because it just won't work. So I think that needs some clarification.

MR SMITH Thank you Mr Deputy Speaker. Yes I think Mr Bates might be quite right about that. I thought that was something that was raised by Members around the table here anyway last week but that's something that needs to be considered. Maybe your right. I don't think it is but maybe you are and I need to have that clarified. The other issue with the public monies part of that I'd ask that a particular part be put in there, I think in relation to what Mr Walker had said that in the recent Emergency Service Bill or Management Bill you Mr Bates had raised the question of the Public Monies Act hadn't been spelled out in that Bill so I'd ask that something be included in this one and I just see that it's saying to the general revenue fund but as we all know the broadcasting operation now operates out of Telecom which is one of the GBE's so that may need to be revised in there too.

MR GARDNER I understand that the Commonwealth Broadcasting Bill provide for the re-transmission of services from Australia and elsewhere. I guess my concern and question is relates more to the content of that material that's been broadcast on the island, whether it is in fact with radio or television services and that's not dealt with in here because I understand that's a function of the Commonwealth legislation but does the Minister proposed in maybe developing something that does give us some control over the content of material that is broadcast on Norfolk Island. Whether it's locally generated or from offshore.

MR SMITH Mr Deputy Speaker that is in the Bill, whether we can, that's for local broadcasting. The content is mentioned in here. As for controlling offshore authorities I don't think we have any say in that. Like for example ABC television, I don't think we could put something in our Act that would tell them that they can't have swearing on their television programmes. Not being flippant about that Mr Gardner but we have spelt out content of local broadcast stuff here.

MR DEPUTY SPEAKER Thank you Mr Smith. Is there further debate. Mr Smith I look to you to move the adjournment.

MR SMITH Yes I so move Mr Deputy Speaker.

MR DEPUTY SPEAKER Gentlemen the matter has been adjourned for resumption of debate and made an Order of the Day for a subsequent day of sitting. I put the question.

QUESTION PUT
QUESTION AGREED

SOUTH PACIFIC GAMES BILL 2001

MR BUFFETT Thank you Mr Deputy Speaker. I present a Bill for an Act to relax certain statutory provisions for a specified time during the South Pacific Mini Games taking place in the Territory of Norfolk Island and for related purposes, and I move that the Bill be agreed to in principal and I table the explanatory memorandum Mr Deputy Speaker.

MR DEPUTY SPEAKER Thank you.

MR BUFFETT Mr Deputy Speaker this Bill has been the subject of a report which I earlier made and distributed to Members and also a Statement that I made in the Legislative Assembly at our last sitting. The purposes of the Bill is to make necessary but temporary changes to administrative and to legislative requirements during the period of the South Pacific Mini Games. This will enable events to occur and sporting teams to be catered for without any breach of the legislation which normally applies in the Territory and the significant nature of those Games in this small place makes it necessary to depart on some occasions from normal procedures, but only for a defined period. If I might just address the principal clauses in this Bill. Starting at Clause 3 which starts to talk about the detail. Clause 3 outlines the temporary operation of the Act for a specified time over the duration of the Games. The next Clause provides for the automatic repeal after the Mini Games are over and Clause 5 provides for this Act, should it come into place to take precedence over other legislation. Clause 6 outlines the object of the Act, to assist in the organisation and management of the Mini Games. Clause 7 is an interpretation clause. Clause 8 coming to some of the specifics deals with the relaxation of certain tourist accommodation requirements relating to the number of guests who may be accommodated in specific tourist accommodation houses for the accommodation of competitors and officials. Clause 9 allows overseas Medical Practitioners to accompany their sporting teams without breaching Territory legislation. Clause 10 allows a curfew to be imposed of the sale of liquor during the Games, and 11 permits the waiver of departure fees for competitors and officials. Clause 12 makes provision for the sale of food at sporting venues and 13 permits the erection of signs, as long as they relate to the Games. 14 relaxes administrative planning and building requirements for the erection of necessary structures at sporting events without relaxing the standards that are applicable in those circumstances and 15 relaxes the requirements for the Games Organisers to formerly apply to use Public Reserves as part of a Games venue. 16 permits the importation under certain conditions of plant materials which are necessary equipment or traditional dress for competitors, and 17 relaxes the requirements in relation to road closures for the Games themselves. That's an overview of the provisions that are made within this particular piece of proposed legislation Mr Deputy Speaker. It is in line with those things that I had earlier foreshadowed in those reports that I referred to and have made public statements about them. The plan is that this piece of proposed legislation would sit on the table for the period of the next month and be available for public comments and then I would ask that we tackle it to its final stages when we come together in April.

MR WALKER Thank you Mr Deputy Speaker. I only received this as we sat down in the House at 10.00 although I have had a quick glance through it and in one of the Clauses which is Clause 10 to do with the curfew on the sale of liquor. I would ask the Minister to give consideration to the fact that this precludes all sale of liquor regardless of whether a guest in a house, a hotel or a guest house or a restaurant or a club or a bar is part of the Games contingent or not and it is highly possible that hotels or guest houses with liquor licences could have house guests who are genuinely visitors to our island with no relationship to the Games whatsoever and we are precluding them from partaking of the normal conditions which would be allowable to our guests on this island during the rest of the year.

MR BUFFETT Mr Deputy Speaker I note what Mr Walker has said, I thank him for his comments about that. Could I just explain that the provision there provides that facility. It doesn't set out exactly how it is to be done or indeed if it is to be done to the extent that you have alluded to. It provides the facility to be able to tackle that and to what extent it is to be done, if it is to be done is yet to be walked through. For example there is another provision which may have some volatility attached to it and that relates to the departure fee arrangement. This piece of legislation provides that it may be done. It is yet to be decided whether that is what we want to do but if that is what we want to do we will have a provision to do it.

MR GARDNER Thank you Mr Deputy Speaker. Mr Walker was quite right when he said we had only received this as we came into the House today and I realise that time has been short and I appreciate that the Legislative Draftsman has been able to respond to, not only the Norfolk Island Amateur Sports Association but also the Minister concerned and Members of the House to try and bring this forward to the House well in advance of the South Pacific Games so we can hammer out some of the lumps and bumps that no doubt we are going to experience with hosting the Mini-Games on Norfolk Island. I note the operation of the Act and the period that it is to be in operation from the 30th day of November until the 18th day of December. There's a couple of queries in relation to that and one of those has to do with the erection of temporary structures. If something needs to go up of a temporary nature prior to the 30th day of November that will have to still go through the normal planning process and gazettal periods and everything else. So it's something I think that those who are hosting the Games are going to need to be very clear on and very aware of so that they don't get caught with an expectation that the Executive Member will just be able to sign off on a temporary thing prior to some of the athletes arriving. The same goes for the provision as the Minister has spoken to about the departure fee. Though we haven't agreed that that's going to happen, I understand that's in the draft budget documents that a 1,000 or so departure fees would be waived that has serious cost implications of course with the introduction of this Bill and to the budget process on Norfolk Island, but I understand it is something that has occurred elsewhere and we are really just being historical in nature by following what other host nations have done before. However it does raise an issue of as I think Members are aware some athletes arrive early and some athletes depart later outside of the time frame of the Games and if any of them were to still be here after the 18th of December they would be caught in that they would have to pay their departure fee. The other issue is something that I spoke about some time ago relating to tourist accommodation and the relaxing of tourist accommodation regulations or legislation that would allow for more than the licenced number of beds to be utilised in tourist accommodation units or premises to host these and it's proposed under this, the provisions are there for that to be relaxed. One concern that I did have was over the subject of local billeting as I think all Members would appreciate there are a number of well known identities throughout the South Pacific that are well known to a lot of people here on the island and a lot of those people on the island have already offered local billeting or private accommodation to a lot of athletes and officials throughout the Pacific and I think it is inappropriate that either no allowance is made for those people hosting them to be able

to offset the costs of privately accommodating those people or that there has been no arrangement put in place to allow for the refund of their part peridium expense to those athletes that are being privately accommodated and I think that that probably needs some attention. As I said and I'll harp on again about the cost implications, I think it's important that we are made fully aware of the cost implications not only of this piece of legislation, but it is important that the public are aware of the cost implications of hosting the South Pacific Mini Games on Norfolk Island in 2001.

MR NOBBS Thank you. Just following on from what Mr Gardner said in relation to departure fees. A sum of \$25,000 has been put into the draft budget at this stage. It's proposed that costs such as that which occur during the Games will be identified, that's Government expenditure and identified and all accounted for. I don't know how much we lose from the grog if we get the grog cut off during the Games but maybe that's something we have to look at. I'm not too sure what the requirement in relation to liquor really entails and as I haven't been advised at all in relation to that so I'll have to look at that and see what the story is and particularly as Mr Walker said if it applies to everybody, not only athletes at that time. So there are a couple of issues that need a bit of clarification in here but generally it's something that's been promised. This Bill has been promised so that the Games people can get on with it and I commend the Minister for getting it in and his assistants including the Legislative Draftsman. Thank you.

MR DEPUTY SPEAKER Is there further debate. There being no further debate I look to you Mr Buffett.

MR BUFFETT Yes thank you Mr Deputy Speaker. I thank Members for all of those identification of issues, the liquor issues, the time frame of operation of the Games, tourist accommodation mentioned, local billeting, departure fees and some other issues that have been mentioned. I thank Members for those comments and of course they can be taken up in context with any adjustments that might need to be done. I would like to try and tidy this in April. I would like to demonstrate to the Games Organisers that I'm making an expeditious response to their approach for these arrangements and I think we're going well on the way to doing that. I move that this matter be adjourned and made an Order of the Day for a subsequent day of sitting.

MR DEPUTY SPEAKER I put the question.

QUESTION PUT
QUESTION AGREED

ORDERS OF THE DAY

EMPLOYMENT AMENDMENT NO 3 BILL

MR SMITH Thank you Mr Deputy Speaker. Yes we're at the point where we need to agree to the Bill in principal and then move on to the detail stage which is, we've got some detail stage amendments or Mr Walker has got some proposed so I need some guidance on how we go from here.

MR BROWN Mr Deputy Speaker Norfolk Island is not a social laboratory. The Employment Act did head towards being a sensible piece of legislation which encouraged rather than discouraged employment and which provided protection where protection was needed. The direction in which the recent proposed amendments has taken us is away from all of that and I do not support it. I will support the amendments but I will then oppose the Bill. Thank you.

MR DEPUTY SPEAKER
no further debate I put the question.

Thank you. Is there further debate. There being

QUESTION PUT
QUESTION AGREED

MR DEPUTY SPEAKER
Mr Walker has foreshadowed detail stage amendments.

Thank you. We move now to the detail stage and

MR WALKER
Thank you Mr Deputy Speaker. These amendments have been before Members for some time now and I propose to move the amendments one at a time to allow a vote to be taken on each one and I would so move No. 1 which is an insertion. The following is inserted at the end of Clause 5 of the Bill following new subsection 3 of Section 11 (2) of the principal Act and it consists of No. 4 this section does not apply to the employment of a person who is a resident within the meaning of the Immigration Act 1980 however in the case of the employment of a resident a) the employee may request the employer to enter into a written contract in the prescribed manner and the employer shall comply within 14 days from such request and b) such written contract shall comply with the standards and requirements imposed by this Act and 5) conditions and requirements for the employment of apprentices and trainees may be prescribed by regulation which are not in compliance with this section or division 2 of this Act.

Thank you Mr Walker. Is there further debate on

MR DEPUTY SPEAKER
amendment No. 1.

MR WALKER
Thank you Mr Deputy Speaker. I have explained before but for those listening on air I will once again give a summary of the purpose of these amendments. This amendment which I have just proposed is to allow the employment of locals and that is Norfolk Island residents to be employed or to continue their employment without a contract being in place. In other words for local people on Norfolk Island it will remain optional that they have a contract or not. However should they so desire to have a contract there is a procedure by which it can be achieved. This is contrary to what the Minister first proposed and what the working group first brought forward. However through the public consultation process it became very adamant that the public out there inclusive of employers and employees wished that this be reinstated into the Act. The consequences of this of course will be that certain conciliatory and adjudication systems will be made a little difficult because in the past and the reason why we had introduced the Bill as it was, was that where a contract does not exist it is very difficult to conciliate or to adjudicate on a employee or an employers complaint. However that aside the overwhelming have asked that it still become optional for residents to have a contract. The Section 5 of that amendment is simply to allow that we can be seen to be encouraging the employment of apprentices and trainees in apprenticeships and traineeships where the conditions of their indentured contract with their employer and those that are training them may differ in certain areas from that of this Act and so therefore we require, this allows that to happen and does not in any way make the employer or the employee of such an apprentice or a trainee to be disadvantaged and effectively that is a summary of what this first amendment is all about. Thank you Mr Deputy Speaker.

MR SMITH
Mr Deputy Speaker thank you. Yes Mr Walker was of a view that everybody should have to have a contract prior to putting in this amendment. There was some comment from around the table about Members saying that it's not the right way to go for a resident to have to have a contract so I was open to the idea of accepting an amendment that would make it not compulsory for residents. Seeing

Mr Walker has been involved in the conciliatory side of things so his advice is taken in that case. I have no difficulty in supporting that particular amendment. Thank you.

MR DEPUTY SPEAKER Thank you. Is there further debate There being no further debate I put the question that the amendment be agreed to.

QUESTION PUT
QUESTION AGREED

MR WALKER Thank you Mr Deputy Speaker. Amendment No.2 is a deletion and substitution and that is that Clause 7 and 8 of the Bill are deleted and a new Clause 7 substituted as follows. Section 14 (2) of the principal Act is amended by deleting the word "must" where it appears and substituting the word "may".

MR DEPUTY SPEAKER Thank you. Is there any debate.

MR WALKER Thank you Mr Deputy Speaker. The purpose of this amendment is simply to allow a discretion to be brought into the Act whereby the current Bill propose that it be compulsory for the RPI to impact on the minimum wage at every time that the RPI either increases or decreases and I have asked here in this amendment that the compulsion of that mechanism whereby the review of the minimum wage becomes a discretionary may if the Minister so desires or can see that there would be some adverse effect in the employment field should the RPI for some unknown reason not indicate a true requirement for the minimum wage to be either increased or decreased. Thank you.

MR SMITH Mr Deputy Speaker this particular Clause and the following one I have some difficulty with because in the original Bill it was intended that we set up a regime that would relate to the RPI which as Mr Walker has just pointed out moving the words must and putting in the word may makes it become a discretionary matter. I have some difficulty with that even though I've certainly had some comment from employers about how we deal with the application of the RPI. The difficulty with putting in a discretionary word instead of a must is that what may happen is what's happened previously, the rate does not change. The Minister doesn't change it or hasn't. This is what has happened for long periods of time and what happens in the end is that you end up with what might seem a good rate at the time, in 4 or 5 years time it's not appropriate. So by putting in a mechanism where it would be adjusted by the RPI it would actually adjust one way or the other at that particular time. I know that some people are uncomfortable with that, with using the RPI but I think from my memory when we were doing some research on it the effect would be quite minimal on the hourly rate as such. However the important bit is how it relates to the actual minimum hourly rate in the end. That's the important thing. I'd be interested to see what other Members have to say about this particular Clause here. It's just making it more discretionary rather than it must but I would be seeking at some stage to adjourn the rest of the debate on these particular Clauses at an appropriate time because there is some additional things that are going to need to be included in this Bill at some point in time, probably at the next sitting, but also the idea today is for Mr Walker to be able to spell out what his amendment is about particularly where he's proposing to reduce the hourly rate to what has been proposed in the original amendment to a different number and that we can look for further comment on that.

MR DEPUTY SPEAKER Thank you. Is there further debate. There being no further debate I put the question.

QUESTION PUT

MR DEPUTY SPEAKER

Do you wish the House called Mr Walker.

MR WALKER

Yes I think so please.

MR BUFFETT

NO

MR NOBBS

NO

MR BATES

NO

MR COOK

NO

MR MCCOY

NO

MR GARDNER

NO

MR WALKER

AYE

MR SMITH

NO

MR BROWN

AYE

MR DEPUTY SPEAKER

Thank you. The amendment is defeated.

Thank you. The result of voting the No's 7 and the

MR WALKER

Thank you Mr Deputy Speaker. Regardless of the result of amendment No. 2 I still wish to move amendment No. 3 which is deletion and substitution and remuneration and that is that 1) Clause 9 of the Bill shall become Clause 8 and I don't think that will apply now I'm sorry. So the amendment will have to be simply without the 1 and 2 and the first line and it will be that the sum of \$10 where it appears in Clause 9 of the Bill is deleted and the sum of \$7-70 is substituted.

Thank you Mr Deputy Speaker. Regardless of the

MR DEPUTY SPEAKER

Thank you. Is there further debate

MR WALKER

Thank you Mr Deputy Speaker. I suspect that this also will be defeated however I wish to move it on the basis that I think it is wrong for us to be determining what is in effect a minimum wage which is creating an award and I think that there is still some misconception that a minimum wage is simply as a net to rescue those that may be in jeopardy of being taken advantage of. It is not to create an award wage and as such I would simply leave it at that. Thank you Mr Deputy Speaker.

Thank you Mr Deputy Speaker. I suspect that this

MR DEPUTY SPEAKER

Thank you. Is there further debate

MR SMITH

Thank you Mr Deputy Speaker. This is a very important part of this whole amendment and this the point where I think I would be proposing an adjournment on this particular issue. Mr Walker had briefly spelled out what he's talking about here. It is in fact where it relates to the minimum hourly rate. Now there has been much debate from within the commercial sector appropriately and also in some correspondence to myself from the employers in that sector who have made comment about what had been proposed of \$9-00 per hour as being the minimum hourly rate. Somewhere along the line it was introduced, and I think it may have been in the Chamber of Commerce letter from Chamber President Gary Robertson that we're introducing an award rate or introducing something that was new. We're not introducing anything that is new Mr Deputy Speaker, what we're doing is reviewing the amount that was already proposed in the original Act. To suggest that we are setting up something different is totally wrong. It's a matter of what we set the rate at is the important factor in all of this. Mr Walker has said as other have said over the period of time since we've been talking about this Bill that it's a safety net. That's ok if it was a safety net but Mr Deputy Speaker I believe it gets used as more than a safety net but I don't know and that's what my amendment is going to be about. I suspect there's possibly an employer or two out there who use it as an award and say the minimum hourly rate is currently \$7 so \$7 is what you get. Now I can't go and check that out because I can't as I understand it send somebody out as an inspector to say are you paying this much or are you receiving this much, and that's one of the

Thank you Mr Deputy Speaker. This is a very

amendments that I want to introduce. The amount for the minimum hourly rate is up to Members. They could leave it exactly as it's been for the last 6 years or they could take into account the fact that costs actually do go up and if somebody has been employed for \$7 an hour or whatever rate it was for that period of time and they are still getting that same hourly rate they are certainly going to be behind the eight ball aren't they because costs do go up. We all know that. So what do we do? Do we just let them drift around out there and try and survive or do we make sure that the safety net, make sure that the safety net has got all its strings tightened up to be able to catch them. Leading up to introducing that \$9 per hour Mr Walker who is the Chair of the Employment Act Working Group kindly rang around many of the employers and was talking about what sort of rates that they would pay. I can't remember the exact words but it appeared that generally most people are paying normal rates of at least \$9 an hour and in fact quite a few as I understand it, well above that. So when we talked about making it \$9 an hour for the minimum hourly rate we knew that there would be some objections, but we believe them, I think the Members of the Assembly said at the time \$9 is what it should be for or I think it was even suggested \$10 is where we should start. So we chose \$9 as a starting rate going up to \$10 an hour from the 1st of July 2001. Now that has to be amended whatever rate we get because the 1st of July is getting a little bit closer now and I've already talked to the Draftsperson about extending that date out, whatever that number ends up being, but really this is the crux of the whole amendment is making the change from the old rate up to what is proposed a new rate and then with the RPI adjustment part on it. At the appropriate stage I'd like to move the adjournment, once other Members have had their say on it and that will give us time to get comments back on what we've been talking around the table here today and to be able to add in other pieces that I believe still need to go into this amendment Bill. Thank you Mr Deputy Speaker.

MR BROWN

Mr Deputy Speaker I don't know who Mr Walker may have phoned in the research which the Minister has just told us about. Perhaps he phoned some people who run a shop that operates from 9-5 Monday to Friday and certainly in that situation he may well have found that people pay X dollars an hour and didn't greatly care what changes were made to the minimum wage or to the Employment Act. I'm not criticising Mr Walker in saying that but what I'm getting at is the Minister has told us oh someone did a survey and came up with this answer but you've got to know who was surveyed, what questions were asked, what were they told. To increase, if there are indeed people that the Minister is talking about who are presently on \$7 an hour, to increase those people from \$7 to \$10 is an increase of about 40%. That's pretty substantial but more importantly the way this legislation is headed if the Minister has his way, if someone works more than the prescribed number of hours they will have to be paid time and a half or whatever the rate may be based on their actual hourly rate and so all of a sudden if there was this hypothetical \$7 an hour person, if they work more than this newly prescribed number of hours they'll be on \$15 an hour. Now I'd like to suggest to you that there is some possible consequences of that. One is for most businesses that kind of increase simply would not be viable. The second is businesses would overcome it. They'd overcome it either by closing and the person would have no job and we look at the Minister. If the Minister had to walk out into the street today and say by Job where can I get a job if this Assembly ends, had this Assembly ended today. It wouldn't be easy for him. He's got particular musical qualifications, so he could play for his supper, but it wouldn't be easy for him to go and find himself a job, but what a sensible employer would do is realise that you can't cope with an increase of this nature and you would either sub-contract things out or instead of having 3 TEP's you'd employ 2 more so that you didn't have to have any additional hours. Now do we really want an increase of, and I tell you it is possible, and increase of 20 or 30% in the number of TEP's on the island purely because of an action we take in relation to the Employment Act. Do we want the consequential difficulties with housing. Do we want the consequential difficulties with the School, with health and so on. I'm pleased that the

Minister is proposing that we adjourn at this stage and not deal further today with this because I believe it needs a lot more thought. Thank you.

MR WALKER Just by way of clarification to the Minister if I could Mr Deputy Speaker. He's given that the person is going to be employed at \$7 and would now become \$10 if this Act goes through without being amended. He's making the assumption that all people affected by this Bill are all adults and are all fully employed. That is not the case. This amount that we are setting as a minimum rate is tied to the employment of school children or those under the age of 18, and that is by percentage. It is also tied to those that may be in a position to have a part-time job because remember that under this, once we commence the new Bill of 2000 which was passed by this House back in February of 2000 and is Act No. 3 and once we commence this new Bill No. 3 Bill of 2001 now there will be no such thing as casuals. We have cut out, so everybody is on this rate. It has much more implications than just Mr Average who is the adult seeking full time employment. It goes right across the board and that applies to also those who may be in a position to do what you might call employment where they for some reason of disability or whatever else cannot perform as a full adult may but can be employed to do in a partial employment type situation. They too are going to have to start at this minimum of \$10. I think that it would be a retrograde step if all employers on the island are forced to set their minimums based on that \$10 and I think that it would have repercussions in that certain school children would no longer be able to get the employment that they enjoy at the moment and there would be certain others who at the moment are self sufficient through employment but could end up on some form of welfare because the employer can no longer afford to take them on at this minimum rate of \$10. Thank you.

MR DEPUTY SPEAKER Thank you. Is there further debate.

MR SMITH Mr Deputy Speaker Mr Brown referred to some sort of survey that was done by Mr Walker. Mr Walker has in his possession a sheet which refers to many commercial enterprises throughout Norfolk Island which he shared with me when he did a telephone survey. I can't remember what was said during the conversations Mr Walker had with the employers. I would very much appreciate Mr Walker who has it in his file, I do not have it in my file if he would like to do something with that so it doesn't make it look like I'm making something up about the employers that all said they were paying more than \$9 an hour, and I look to Mr Walker to do that if he doesn't mind. I don't think it's got any names on it but I understand that there's quite a few on that particular list. Children, in relation to the effect it will have on children that are employed. I'm very aware of the effects that it may have but why should they be any different. If a child, I'm calling a child anybody that's under 18 not for the purposes of the Act. If somebody is under the age of 18 why shouldn't they be getting as much as they can too if you put in crude terms as much as somebody over the age of 18. If we feel that the minimum hourly rate should change for adults surely it should change for children as well, and it may, it may have an effect that some kids won't get employed, well I'll wear that, because I would rather do that than not adjust anything purely on the basis that some child might not get employed because I'm really quite sure and Mr Walker's actually backed me up on this that if somebody is going to employ or is currently employing children why would they do away with them. It's going to cost them an adult wage to replace them, depending on what they are doing of course. It wouldn't apply in every case, but I accept that, that there's going to be a cost to employers where children are concerned but it's not that much depending what rate we finally end up with because it reduces from the age of 18 down to the age of 15 by percentages. I'll stop there.

MR WALKER Thank you Mr Deputy Speaker. I did come along prepared to distribute a copy of the survey which is for want of a better term is clean of anybody's specific name. It gives the trade or type of business on it. However the

questions asked were, what and it was to establish the going market rate, not the minimum rate and I have to emphasise that, it was to establish the market rate, not the minimum rate and the question asked was if an adult person was employed by you today, on the date that the survey was done, what would be your starting rate for that person and so therefore we were trying to establish as a Working Group what the market rate is out there. It is an accepted principle that there has to be a difference between the market rate and the minimum rate. The minimum rate by the terminology of the very brief that set this whole Act up was that it is a safety net. It is a safety net so that people can't be taken advantage of. It is not meant to create a new market rate which is exactly what this is going to do if we start putting the minimum rate up to \$10. I'd be quite happy for the Clerk to come and collect these and distribute them to the Members if they so desire to look at it. There are no names on it as I have said and it does give some indication of what the market rate is at the time that the survey was taken.

MR DEPUTY SPEAKER

Thank you. Is there further debate

MR GARDNER

Thank you Mr Deputy Speaker. I'm pleased that Mr Walker's first amendment and that was relating to residents not requiring a contract other than if they seek to have one has been included. As Members would be aware I've been passionate on that fact for quite some time now and has occurred to me when one is no longer an Executive Member of the Legislative Assembly one has to go and find some other means of a livelihood, however it's not my proposal to go out and be an employee but if that were the case that I was pretty adamant that if I was needing to look for a job that I would like to retain that right to either have a contract or not have a contract. I'm a pretty old fashioned sort of guy at the end of the day and I take a lot of people on their word and as I've said in previous debate I've been bitten by that but on the whole I've had a pretty good experience. Mr Walker's gone and undertaken a pretty substantial survey by the look of it, by the paper that's just been handed around to us, and that's good to see and I guess when you glance at that I wonder what on earth we're discussing this for because I think everybody's pretty well catered for, and this really brings me back to a pretty strong position that I take in relation to legislation. Unless there is a demonstrated need to have to legislate for some of these things it better to try and maybe with what you have in place to tighten up some of the appeal mechanisms and review mechanisms of the employment tribunal etc to drag into line those few bad apples that are in the bunch, rather than just holus bolus go out and hit everybody over the head with a big stick, and those that historically for a long time have been towing the line and without doubt some of these businesses that have been identified have historically been exceptional employers. There's no doubt about that. It's not often that you hear of too many complaints against established operators. However as I say there is always a few bad apples in the bunch and I think that's probably the area that needs attention is the few bad apples and how you deal with those, rather than as I say hitting everybody over the head with a big stick. I've given examples in previous debate about overtime and those sorts of issues. Mr Deputy Speaker when I first came to Norfolk it certainly wasn't my intention in those days to spend any more than 2 weeks here. I was on a flying visit, flying holiday. I was off to other pastures. However the attractions of Norfolk Island tied me down and I've spent most enjoyable, in excess of half my life living on Norfolk Island, brought up a family here on the island but there's a lot of other people that are currently on the island that I used to be in their age group and one of the things that you want to do when your travelling is to be able to fly into somewhere, pick up a job, work unlimited hours to get as much cash behind you as you could before you moved on to your next destination, and because of the type of business that Norfolk Island is in tourist accommodation, we attract a lot of those people here to our shores. One of the beauties of it is that your prepared to put in the long hours, your not after enormous dollar value of overtime but if you want to work 60 hours you should be able to work 60 hours because you want to put that money away so that you can move on to the next stop on your road. An example that I gave was that maybe if you had 2 employers and

I'll just take hypothetically a couple of Members of the Assembly. If we have Ron who was a substantial employer and we had Mr Buffett as a substantial employer and they had staff that were working for them and they hit that magic 40 hour side of things, they are I think going to be hesitant to pay exorbitant levels of overtime if there is a lot of work to do and I think Mr Brown says you've got an option, you can go out and employ a couple of other TEP's or these 2 operators can get together amongst themselves and say I've got Joe Bloggs who does X for me and you've got Joe Bloggs who does a similar thing in your establishment. I'll take your bloke after he's worked 40 hours at yours and pay him as a new employee in my establishment and you take my bloke. You probably find the employees are going to be after that because that's some way of them earning extra money. The employers going to enjoy that because it's simply saving them costs but getting another job done without going through the process of having to bring in other people to the island. It's a win win situation in that sort of experience. Granted there are other areas where people work and at times can well be abused in their responsibilities. People on salaries can work exorbitant hours but that's part of the job, that's what they accept when they take the job on. My history in the hotel industry is that you know that there's a lot of work there, you know that the hours are there, you accept to do that job as part of the job. You don't expect to get huge overtime allowances and bits and pieces. It's one of the beauties of it, it attracts younger people and people that are on the move and people that are very flexible in their time and movement and I think that's important, and certainly it underpins the tourist industry on Norfolk Island and something that we've got to bear in mind when we're dealing with this. What I'm trying to say at the end of the day is that I'd rather not us going wielding the big stick at everybody and capturing everybody in this. If you want to target those bad apples well we'll target the bad apples by strengthening the mechanisms to be able to deal with them. Thank you Mr Deputy Speaker.

MR DEPUTY SPEAKER

Thank you Mr Gardner. Is there further debate on amendment No. 3.

MR SMITH

Mr Deputy Speaker if this is the appropriate time I'd like to move the adjournment until the next sitting of this issue.

MR WALKER

Thank you Mr Deputy Speaker. Firstly I am so pleased that Mr Gardner brought up the subject of disciplining everybody or legislating everybody to discipline a few. I had admitted to bring that point forward and it is one where I sit on the Conciliation Board and under this Act and I'm sure it can be substantiated through the employment officer and the Minister could be furnished with that information that there is a trend within the complaints that are received that they are from a minority on the island of employers. They are not the general case. To my knowledge the general case is that most employers are very responsible, employees are happy with the conditions they have and this survey indicates that the market rate is healthy and I can't see why he is so insistent that the safety net has been breached and should be lifted so that it comes up to \$10 an hour on the basis that somebody might be employed at \$7. I've indicated here through my position as Chairman of the Working Group who undertook this survey that that is not the case and I simply think that we are over legislating and trying to wield the big stick as Mr Gardner said on everybody simply to bring 2 or 3 employers in line. I'm a little distressed that he's going to adjourn this Motion once again or is going to attempt to adjourn it because I believe this Act has been on the table for a number of years now. It is not a matter of this Act review, it was I think it goes back at least 3 Assembly's if not 4 Assembly's since it was started the review of the Employment Act and as such I believe a tremendous amount of public consultation has been entered into. I cannot see why we have to now go back and ask for more consultation on the consultation. It just does not seem to me that the Minister wants this Act to ever become commenced. He can always bring another Bill forward if he wishes or so desires once it has been commenced but this

House in February of 2000, let me stress again passed a Bill which was assented to as an Act and has yet to be commenced. We are talking 13-14 months on that Act, which is this one. I don't know how long we can procrastinate to take public submissions on this particular Bill.

MR SMITH Yes, before I move the adjournment or propose and adjournment Mr Walker must have forgotten a couple of things. He's on our Working Group. It was the Working Group who made these recommendations. Mr Walker is the Chairman of the Working Group. I've never set an hourly rate. It came out of the Working Group, it came to the Members, Members said it should be X. \$10 I'm talking \$9. Mr Walker keeps referring to \$10. I hope we are both on the same side with this particular Bill Mr Walker because we've been working on this together. I'm taking the time with it to make sure everybody knows what we are doing with it. I do that with my Bills if I feel that more information is needed or where people haven't understood the original Bill in the first place. Not the Bill the Act, and that has proven to be true in the last 2 maybe 3 months, where there are employers who did not fully understand the current Act which is in force, and instead of rushing in and making it so that we make it a little bit worse where some employers have said well you know perhaps we should get everybody used to what the real rules are already and then introduce new bits and that's the process I'm going through. Mr Walker said something about I might not have intention of passing the Bill. Of course I do but there's other things that need to happen with the Bill too. There's a suggestion, and I think it's a sensible proposal to split the Employment Act up so that the OH & S stuff comes out of that and becomes a separate Act. I want to do these things carefully so people understand what we're talking about, careful that we don't do something that may really create havoc amongst the employers and the employees and give us further problems with unemployment for example and I'm open to those negotiations. I want to make sure we get it right in the first place.

MR WALKER Thank you Mr Deputy Speaker. The Minister is quite right that when he introduced this Bill which was on the 16th of October last year that it would have commenced had it been assented to immediately at \$9 and changed to \$10 on the first of July in the year 2001 which was a period of 8 months and the Working Group recommended that. He is quite correct. However we are now in March and we are going to adjourn it again according to the Minister and if we do so we are then talking the April sitting. It will possible get adjourned again. The first of July will only be a couple of months away, so we are talking about \$10 not \$9. By the time it is implemented and is commenced we will be talking about \$10 an hour as the minimum rate for the 1st of July.

MR GARDNER Thank you Mr Deputy Speaker. Just an observation on Mr Walker's amendments. The previous amendment No. 2 that was defeated would have taken care of the reference to the dollar value in Clause 7. There would need to be further amendment if the amendment No. 3 were to get up to amend Clause 7 to reflect the changes in the dollar values and in light of I guess some of the confusions that now are starting to set in I think we need to, I would certainly support the adjournment of this. I've had brief discussion with Legislative Counsel and it may be an appropriate way to go through and to set out a clean Bill with proposed amendments and those that are being looked at being deleted so that Members were very clear on exactly what the outcome of this would be if it were agreed to and I would support that position because there's nothing worse than ending up with another one of Mr Bates' sayings a snafu because we were unable to make this thing work properly and it's just mass confusion. So I think it's appropriate that we do adjourn it.

MR SMITH I was going to move the adjournment but there is another Member that wishes to speak.

MR NOBBS Thank you. I'm pleased that somebody has clarifies the situation. As far as I'm concerned it's \$9 up till the 30th of June, it then goes to \$10, now you want to bring it back to \$7-70 from 2002 from the 30th of June 2002 by this particular amendment. That's my reading of it and I think it needs clarification because it just doesn't fit the bill. So I'd suggest an amendment or you either pass the \$10 which is due to come in on the 1st of Jul or have a look at the whole thing again.

MR DEPUTY SPEAKER Thank you.

MR SMITH Mr Deputy Speaker I did say in my debate earlier that that is one of the things that has to be fixed is that particular area there so that does reflect what we're intending to do and the \$10 an hour would be extended out to another date possible 2002 as one of the other things that does need to be fixed and I certainly agree with what Mr Gardner said. The adjournment has actually become quite necessary. Views have been expressed about the current proposed amendment and it's an appropriate time to move adjournment and we can make some adjustments to the Bill and bring it back in a different form for the next sitting and if there's not further indication of debate I'll move the adjournment.

MR DEPUTY SPEAKER Thank you Mr Smith. Do you wish to further debate.

MR WALKER I simply wish to give notice that I will have a further detail stage amendment when we come back to the House. I have actually give it to the Legislative Counsel some 2 weeks ago but his through pressures of work has not been able to bring it to me.

MR SMITH So we wouldn't have had it for today anyway.

MR WALKER We would have had it for today/

MR SMITH So we couldn't have passed this today.

MR WALKER Your in charge.

MR DEPUTY SPEAKER Thank you Mr Walker. I believe Mr Smith you had indicated that you would seek to adjourn debate on amendment No. 3.

MR SMITH Mr Deputy Speaker I move that debate on the Bill be adjourned and made an Order of the Day for the next sitting.

MR DEPUTY SPEAKER The question is that the debate on the Bill be adjourned and made an Order of the Day for a subsequent sitting.

QUESTION PUT
QUESTION AGREED

MR DEPUTY SPEAKER Do you wish the House to be called Mr Walker. The question as put has been agreed to and the Bill has been adjourned and made an Order of the Day for a subsequent day of sitting.

RESUMPTION FOR PUBLIC PURPOSES OF PORTION 38B 16

MR BROWN Mr Deputy Speaker Portion 38b (16) is a thin strip of land in front of the building known as the Strand Arcade, between the Strand Arcade in Taylors Road. As Members are aware it was part of a subdivision almost 30 years ago and in obtaining approval of that subdivision the then owner of the property who still owns Portion 38b (16) made it clear that Portion 38 b (16) was intended to be used for road purposes. As it happened no one thought to obtain a conveyance of that land and so the original owner has continued to own it through the period. As Members are aware the land was the subject of an extensive Court case some 10 years ago as a result of which the Supreme Court of Norfolk Island made certain findings and they were to the effect that the land indeed did become part of a public roadway, notwithstanding that it remained owned by the owner but at the extent of the owners ownership was very limited. A substantial cost order was made against the owner at that time but the defendants in the proceedings that he had commenced chose not to pursue those cost orders at the time, although they could even do so now because a costs order lasts quite a long time. They chose not to do so because they felt it would be throwing good money after bad. Initially there were no further problems but as most Members are aware there have in more recent times been further problems with that land. When this subject was initially raised a number of Members said look there must be a better way to solve this than resumption and at least one, possibly two of the owners of the effected land wrote to the Solicitor who acted for the owner of Portion 38b (16) and made a proposal to purchase it. The owner then went overseas for quite some weeks and returned comparatively recently and it was because of the owners absence from Norfolk Island that this matter has been adjourned on a number of occasions. When the owner did return recently he instructed his Solicitor that he did not wish to take any action in relation to selling the land or resolving the problem that he simply wanted to await the outcome of the Motion in the Legislative Assembly. If the Legislative Assembly decides to resume a property it does so by passing a Bill so the Motion that's before us would not have the effect of causing a resumption. The only way a resumption would occur is if a Bill was subsequently introduced and passed and such a Bill has to make provision for the payment of just compensation. I leave what I have to say at that other than to say that it is a shame that this matter was not resolved by the Commonwealth at the time of the original subdivision because had a conveyance been taken at that time, no future problem could have arisen and I'm happy to endeavour to provide such further information as any Members may require but I believe that most if not all Members have already been provided with quite detailed information and also with a legal advice which was prepared some years ago within the Administration in relation to the same subject. Thank you.

MR COOK Mr Deputy Speaker could I have it noted that I will abstain from taking part in any discussion on this matter or voting on it as I have previously given advice to the owner of the land and it would be inappropriate for me to participate.

MR NOBBS I understand Mr Deputy Speaker that Mr Brown is acting also for some of these people as well and I wonder how appropriate it is for he to be bringing this matter forward in the first place let alone discussing it at length here.

MR BROWN The Chief Minister has mouthed off yet again Mr Deputy Speaker in his usual arrogant and ignorant fashion.

MR DEPUTY SPEAKER Point of Order Mr Brown. I believe the Chief Minister had the floor.

MR NOBBS That's what I said. I believe that and I've seen some documentation. The position with this particular block as far as I'm aware is that it was subdivided under the Commonwealth's arrangements in something like the 1970's. The Minister who signed it at the time was some, I can't remember his name but I think they used to refer to him as the cult from Kooyong. He signed it off, I believe that this particular

problem is one that the Commonwealth must address particularly in the transfer of land situation and that we should progress down that road, and there is a problem in that particular area. Everybody knows that, and it's been put off as Mr Brown said for some month now and I'm still of the opinion that is the Commonwealth's responsibility and they should be requested urgently to fix it up. Thank you.

MR DEPUTY SPEAKER Thank you Mr Nobbs. Is there further debate.

MR BROWN Mr Deputy Speaker I did not bother to declare a pecuniary interest in this matter because I don't have one. Certainly I have acted from time to time for the owners of adjoining land but I do not act for them in relation to this matter and I will await a withdrawal and apology from the Chief Minister for the ignorant allegation that he just made against me but let me proceed further.

MR DEPUTY SPEAKER Point of Order Mr Brown

MR NOBBS This particular allegations that are being

MR BROWN If there is no Point of Order been called Mr Deputy Speaker I have the floor and I ask that you enforce that.

MR NOBBS Point of Order.

MR DEPUTY SPEAKER What is the Point of Order Mr Nobbs.

MR NOBBS The Point of Order is that this gentleman over here is insinuating that I am some sort of an

MR BROWN Idiot is a good word, idiot.

MR NOBBS I'd ask him to withdraw that if he wouldn't mind thank you very much Mr Deputy Speaker.

MR DEPUTY SPEAKER Mr Brown you are well aware of Standing Order 62

MR BROWN I'll happily withdraw my allegation that the Chief Minister is an idiot, and now might I proceed with my debate. The Chief Minister time and time again tells us that the Norfolk Island Government should do nothing about a particular subject because it's the responsibility of the Commonwealth. The Chief Minister has no real understanding of self government. The whole structure of self government gave us the right and the duty to govern ourselves. Sitting here only a few days ago the Commonwealth Minister 4 times had to repeat himself and even then the Chief Minister didn't understand what was being said about a land matter, but it's been said many times that we have power in Schedule 2 matters. We also have a slightly different form of power in Schedule 3 matters and the slight difference is simply that the Commonwealth shares the power with us and there is a different assent procedure but we're also able to pass legislation in relation to non Schedule matters. Now the Chief Minister doesn't understand this but it's the fact, we can pass legislation in Schedule 2, Schedule 3 or non Scheduled matters and the only difference is there is a different assent procedure. Now in this case it is not appropriate for us to say oh that's the Commonwealth's problem. It's time we got on and sorted out our own problems, showed that we can govern the place and didn't allow the Commonwealth to just laugh at us because we have a Chief Minister that says oh we can't do that, Immigration is run by the Commonwealth. That's not on.

MR NOBBS I'd just like to say I really appreciate that shared business. I mean the Commonwealth have a power of veto. I mean we need to define all these particular issues. Now we've looked at today, and I'm pleased that Mr Brown brought up about Immigration because in the immigration situation we are now clarifying those particular problems that have been sitting around for years now and not clarified. We are clarifying them, those sorts of issues. Now the land is exactly the same but in this case I firmly believe that this is fairly in the Commonwealth's court and they must do something about it, regardless of what the Minister sitting over there may or may not have said the other day and I dispute completely what Mr Brown said in that, that's usually his form, but it's not correct what he was saying a few minutes ago in relation to the Minister. The Minister was stubborn and so were we, actually in relation to those particular issues. However I believe on this land issue now that it is a Commonwealth issue and that it must be taken up by you as Minister responsible to deal with it specifically with the Commonwealth. That's my view.

MR BATES Thank you Mr Deputy Speaker. I don't want to enter into the debate as to who should fix this up and who shouldn't fix it up and I certainly am very reluctant on all occasions to resume anybody's property if there's another way around it. I always think that I wouldn't like somebody resuming my property and if there's another way of solving the issue then resumption is the last call but it seems to me from the little I know about this that the piece of land is really no use other than to be a nuisance value in its present form. It does say that reasonable compensation, I've got no idea of what the value of this land might be and what reasonable compensation would be. I think I would like to have some idea about that because it is public money we are dealing with but the bottom line to all this is I believe it is an issue that must be resolved. If it can't be resolved through negotiation then I assume that resumption is the final course. I don't mind whether we finish this today or whether we finish it next week but I do think we, and I believe you Mr Deputy Speaker it may be in your court but I would urge you if this doesn't go through today that you do follow it through to some satisfactory form of finality and I'd be happy to leave it at that.

MR GARDNER Thank you Mr Deputy Speaker. Just by way of assistance to you and having been the previous Minister with responsibility for carriage of this matter. It may be again of some assistance to Members of the Assembly to provide some further background in relation to this matter and as I explained to Members the other day in a meeting both my predecessor The Honourable Ric Robinson who was then Minister with carriage for this and myself had been consistent in the advice that we had provided to the applicants in this matter in that we felt that the issue of resumption was possibly the final course of action I think, as Mr Bates just said and that before we were prepared to pursue that option that we would need to be satisfied that all other options to quell the disputes and other issues arising around this block of land were properly addressed and both of our advising as I said were consistent in our responses to the applicants in this matter. I am now satisfied that the applicants have made those advances as best they can to try and overcome the problem. Picking up on what the Chief Minister has said, it's argued that maybe there is some responsibility of the Commonwealth in this matter. However I think if we want to see a resolution to this matter we're probably going to be waiting a lot of years if we are going to wait on the Commonwealth to finalise it. Certainly there would be no harm in seeking their view on this matter but I believe now with the copy of the detail received from the owners representative that they don't wish to negotiate it in any form or fashion that basically is at an impasse now, that impasse needs to be broken one way or the other and without going into all of the arguments and the different Court cases surrounding this block of land I think it's appropriate as no doubt you will see Mr Deputy Speaker when you are fully briefed on this matter that it does need to be resolved and resolved quickly.

MR BUFFETT

Thank you Mr Deputy Speaker. This is a matter that does require resolution. We all know and it has been explained to us again today that it has gone on for a long period of time but of more recent times there have been difficulties, probably unnecessary difficulties that have arisen. Certainly some of the difficulties have been raised with me by people who have business interests and ownership interest in the areas that are adjacent to this Portion of land. There has been an assertion that maybe the Commonwealth should tackle the problem. It's my observation that the people who are concerned with this issue are people who are in business in Norfolk Island or who live in Norfolk Island in the main anyhow. It's quite clear that this matter is in our court. There may be an assertion that because something's may be listed in the Commonwealth area that we need to defer to the Commonwealth on every occasion. May I point out to people who might be of that view that is not the case. For example from day 1 one of the retained functions was social welfare but we put into place, and as of right a social welfare system, and although it was a retained function in those earlier times, we paid for it and we paid for it for this reason, that if we are to look after our own affairs we must demonstrate that we are to do so, and so we picked up the cost and ran with it from the time of our implementation. That particular matter given our performance has now been transferred to us. That's just but one example. So when these issues are endeavoured to be, I'm not too sure this is the right description but maybe the real issue sideline by arguments of that nature, I don't think that they can be carried through with substance, but that's really an aside because that is taking away from the main issue that is now in front of us. Mr Gardner has already said that there has been significant effort to try and solve this matter by mutual agreement amongst the parties. It hasn't happened. Regrettably it hasn't happened and we do know that this is something that borders on, and indeed may well be part of the road situation. Roads of course is a Schedule 2 matter. Footpaths is a Schedule 2 matter. So you can see how relevant it is to our situation and why I would say that we need to get on and resolve this matter. I think that there are two principle steps. One is that we should find out what sort of cost is involved in this matter and once we know that, then I think we should be pressing to have the matter put into public hands as this Portion of land was designed to be when that subdivision arrangement was last examined by the Courts. So where does that lead us in respect of this Motion. I would like to settle the dash thing now and get it out of the road but some Members may feel that they want to know the sum before that happens. If they are of that mind then I would understand that and I would pause until that happened but I would hope that we would very quickly come to the stage of agreeing that we've got to go through the formal process of bringing it to a close by resumption because I think that is the last step that we're at.

MR DEPUTY SPEAKER

Thank you. Is there further debate.

MR GARDNER

Thank you Mr Deputy Speaker and thank you Mr Buffett for those comments. Certainly enlightening and I agree wholeheartedly with what you've said. If it is a matter of what the cost is, you've heard me endlessly today on other pieces of legislation saying that should be attached to the Bill. I have no difficulty in supporting this Motion today knowing that as Mr Brown said previously that a Bill would have to come to the House and I would certainly be one pushing to make sure that the appropriate consideration of cost be attached to such a Bill, and if Mr Brown is looking to pass this Bill through the House today I'd certainly be prepared to support it.

MR DEPUTY SPEAKER

Thank you. Is there any further debate. There being no further debate I put the question.

QUESTION PUT

MR DEPUTY SPEAKER One abstention. Mr Nobbs would you like the House called.

MR NOBBS Yes please.

MR BUFFETT	AYE
MR NOBBS	NO
MR BATES	AYE
MR COOK	ABSTAIN
MR MCCOY	NO
MR GARDNER	AYE
MR WALER	AYE
MR SMITH	NO
MR BROWN	AYE

MR DEPUTY SPEAKER Results of the voting Honourable Members, the Ayes 5 the No's 3 with one abstention. The Motion is carried.

FIXING OF THE NEXT SITTING DAY

MR COOK Thank you Mr Deputy Speaker. I hope I have more success with this last Motion than I did with the first Motion. I move that the House at its rising adjourn until Wednesday the 18th of April 2001 at 10.00am

MR DEPUTY SPEAKER Thank you Mr Cook. Is there any debate.

MR BROWN I'm one that always supports Mr Cook when I can Mr Deputy Speaker and it's my pleasure to support him on this occasion.

MR DEPUTY SPEAKER The question is that the Motion be agreed to.

QUESTION PUT
QUESTION AGREED

MR DEPUTY SPEAKER We move now to the adjournment and I look to Mr Bates.

MR BATES Thank you Mr Deputy Speaker. I move that the House do now adjourn.

MR DEPUTY SPEAKER Is there any debate.

MR GARDNER Thank you Mr Deputy Speaker. Just in relation to my present circumstances and change of circumstances since the last sitting of the House. I just wanted it recorded that I am grateful for the support that had been extended to me by my colleagues and particularly the tremendous support that was provided to me from the CEO, the Program Managers within the Service and also other Officers of the Public Service and the community in general. I've been overwhelmed by the degree of support from when I first took over Executive Office in the previous Assembly and an obvious feeling within the Service and within the community that they were keen to pursue the

furtherance of the betterment of life on Norfolk Island and I certainly have appreciated that assistance that they have provided to me and I thank everybody for that assistance.

MR DEPUTY SPEAKER Thank you Mr Gardner. Is there further debate.

MR WALKER Thank you Mr Deputy Speaker. I would like to give notice that I will be absent from the island at the next sitting and would seek leave.

MR DEPUTY SPEAKER Is leave granted. Leave is granted

MR DEPUTY SPEAKER Leave is granted Mr Walker. Is there any further debate.

MR BATES Thank you Mr Deputy Speaker. I think it would be appropriate for me to at least register my appreciation of the work that Mr Gardner did do while he was an Executive of this Assembly. I had a lot of confidence in the work he did and at the risk of offending others I think he was the hardest working Executive of this Government. I wish him well in his new adventures. I record my disappointment that he chose to take the action he did but I do wish him well for the future.

MR DEPUTY SPEAKER Is there any further debate. There being no further debate this House stands adjourned until Wednesday the 18th of April 2001 and 10.00am