



THE GOVERNMENT OF NORFOLK ISLAND

MEDIA RELEASE

Democracy at risk: Norfolk Island joins High Court case

The Chief Minister of Norfolk Island, Hon Geoff Gardner MLA, said today that the Government of Norfolk Island has agreed to join in a High Court Constitutional case. The Chief Minister and Mr Geoff Bennett, a resident of the Island, jointly announced that a legal proceeding was commenced on their behalf on 12 April 2006 against the Commonwealth of Australia in the original jurisdiction of the High Court.

The Chief Minister said that the objective of the proceeding is to uphold the democratic rights of Norfolk Islanders and to protect the progress made toward internal self-government. The litigation aims to ascertain the limits of the Commonwealth's legislative power over Norfolk Island.

The proceedings seek a declaration by the High Court that provisions of the Commonwealth's *Norfolk Island Amendment Act 2004* are invalid. The provisions which will be argued to be invalid are those which (1) require Australian citizenship as a qualification for new enrolments, and re-enrolments, on the Norfolk Island electoral roll; and (2) require Australian citizenship as a qualification for election to the Norfolk Island Legislative Assembly.

The decision to institute the proceeding follows the receipt of legal advice in November 2004 and again in February 2006 from the Hon R J Ellicott AC QC and Professor James Crawford SC FBA.

In his earlier career Mr Ellicott was the Federal Minister chiefly responsible for the *Norfolk Island Act 1979*, and has held office as Federal Attorney-General. He is now an eminent barrister in private practice.

Professor Crawford is Whewell Professor of International Law in the University of Cambridge in England. He is Chair of Cambridge University's Faculty of Law, and an Australian senior counsel.

As well as the Government and Mr Bennett, the plaintiffs in the proceeding include a number of other Norfolk Island residents affected by the Australian citizenship requirements of the Norfolk Island Amendment Act 2004.

The litigation is being funded from non-government sources, and appropriate written arrangements have been put in place to confirm this. Public money will not be spent on, nor risked by, the proceeding.

"The Government of Norfolk Island welcomes the opportunity to participate in this case", Mr Gardner said. "We value consultation with the Commonwealth, but recent events have shown that the Commonwealth does not always place equal weight on the importance of consultation with Norfolk Island. The 2004 Amendment Act disadvantaged many members of the Norfolk Island community by excluding them from the democratic process. In the interests of good governance, we seek to rectify this denial of democratic rights."

Geoff Gardner
Chief Minister

12th April 2006