

**NORFOLK ISLAND
TENTH LEGISLATIVE ASSEMBLY
MINUTES OF PROCEEDINGS
WEDNESDAY 21 JULY AND 11 AUGUST 2004**

**NORF'K AILEN
DIISEM MENETS LARNEN WATHING HAEPN
INAA
TENTH LEJESLIETEW 'SEMBLE
WENSDI21 JUULAI AND 11 ORGAS 2004**

1 The Legislative Assembly met at 10.04 am. The Deputy Speaker (Ms Chloe Nicholas) took the Chair and read the Prayer. The Deputy Speaker offered apologies on behalf of Mr Ric Robinson and the Speaker (Mr David Buffett)

2 CONDOLENCE

The Deputy Speaker recorded the tragic death of the Hon. Ivens Buffett MLA, Minister for Land & the Environment last Monday and advised that as a mark of respect that today's sitting is to be suspended to reconvene on Wednesday 11 August 2004. As a mark of respect all Members stood in silence

The Deputy Speaker suspended the sitting at 10.14 am until Wednesday 11 August 2004 at 10 am

The House resumed at 10.14 am on Wednesday 11 August 2004, the Speaker taking the Chair and reading Prayers

The Speaker advised of a technical problem with broadcasting to air at this time

3 CONDOLENCES

Ms Nicholas recorded the passing of –

**Rochelle Sybil Richards
Ivens Francois Buffett
Muriel Sally Tighe**

As a mark of respect to the memory of the deceased all Members stood in silence

4 QUESTIONS WITHOUT NOTICE

Mr Brown joined the meeting at 10.26 am

The Deputy Speaker took the Chair at 10.38 am

5 PRESENTATION OF PAPERS

The following papers were tabled:

- (1) Mr Gardner, Chief Minister – Report to executive member for the period 1 January 2004 to 30 June 2004 under subsection 31(4) of the *Legal Aid Act 1995* and clause 12 of the Memorandum of Understanding between the Commonwealth of Australia and Norfolk Island

Mr Brown moved –

THAT the House take note of the paper

Debate ensued

Debate adjourned (Mr Brown) and the resumption of debate made an Order of the Day for a subsequent day of sitting

- 2) Mr Donaldson, Minister for Finance - Financial Indicators up to 30 June 2004- and moved –

THAT the House take note of the paper

Debate ensued

Question put and agreed to on the voices

- (3) Mr Gardner, Chief Minister – Joint Statement by the Foreign Ministers of Australia and New Zealand in relation to the outcome of negotiations on the delimitation of maritime boundaries between the two Nations; together with a background briefing paper on the negotiations, and the full text of the Treaty signed between the two Nations, and moved –

THAT the House take note of the paper

Debate ensued

Question put and agreed to on the voices

- (4) Mr Donaldson, Minister for Finance –

- a) Directions by executive member for virements that have been made between 30 April 2004 and 21 June 2004;
- b) Travel expenditure report for period 4 February 2004 to 20 May 2004 detailing travel allowance and airfares paid for Administration staff and Members of the Assembly;

- 5) Mr Buffett, Minister for Community Services and Tourism –

- a) Inbound passenger statistics for 12 months ending 30 June 2004 and for July 2004;
- b) Sale of Tobacco Regulations 2004;
- c) Firearms Amendment Regulations 2004

6 STATEMENTS

- 1) Mr Buffett, Minister for Community Services and Tourism , recorded that it was 25 years this month since the inauguration of the Legislative Assembly in 1979, and foreshadowed the celebratory activities that were scheduled for next week to celebrate this milestone

- 2) Mr Gardner, Chief Minister –

- a) reported that formal advice had been tendered to His Honour the Administrator requesting on behalf of Members of the Assembly that His Honour call a general election for the 11th Legislative Assembly on 20 October 2004; and advised of the redistribution of portfolios between the executive members and current legislative priorities as at 6 August 2004

Papers: Mr Gardner tabled the administrative arrangements for executive members and their portfolios as at 6 August 2004 together with paper detailing Legislative Priorities as at 6 August 2004

Mr Nobbs moved –

THAT the Statement be noted

Debate ensued

Question put and agreed to on the voices

- b) Reported on his attendance at SCAG and of his discussions with Minister Ellis re. legislative proposals to modernise our justice system

7 MESSAGE FROM THE OFFICE OF THE ADMINISTRATOR

The Deputy Speaker reported **Message No. 32** from the Administrator advising that on 30 June 2004 he declared his assent to the *Appropriation Act 2004-2005, Enactment Reprinting (Amendment) Act 2004* and the *Building (Amendment) Act 2004*

8 CRIMINAL LAW (AMENDMENT) BILL 2004

Mr Gardner, Chief Minister, by leave, presented a Bill for an Act to amend the *Criminal Law Act 1960* and moved – That the Bill be agreed to in principle

By leave, standing orders suspended so as to permit the Bill to be considered through all stages at this sitting

Paper: Mr Gardner tabled the explanatory memorandum to the Bill

Debate ensued

Question put

Bill agreed to in principle – Mr Brown and Mr Robinson abstaining

Leave granted to dispense with the detail stage

Mr Gardner moved –

THAT the Bill be agreed to

Question put

Bill agreed to – Mr Brown and Mr Robinson abstaining

9 MENTAL HEALTH (AMENDMENT) BILL 2004

Mr Buffett, Minister for Community Services and Tourism, by leave, presented a Bill for an Act to amend the *Mental Health Act 1996* and moved – That the Bill be agreed to in principle

By leave, standing orders suspended so as to permit the Bill to be considered through all stages at this sitting

Paper: Mr Buffett tabled the explanatory memorandum to the Bill

Debate ensued

Question put

Bill agreed to in principle – Mr Brown and Mr Robinson abstaining

Leave granted to dispense with the detail stage

Mr Buffett moved –

THAT the Bill be agreed to

Question put

Bill agreed to – Mr Brown and Mr Robinson abstaining

10 PROVIDENT ACCOUNT ACT 1958 – APPOINTMENT OF OFFICIAL TRUSTEE

Mr Donaldson, Minister for Finance, pursuant to notice, moved -

THAT for the purposes of section 4A of the *Provident Account Act 1958*, the Legislative Assembly recommends that the responsible executive member appoint —

Stephen Paul Mathews

being a public service employee, to be the Official Trustee of the Provident Account

Debate ensued

Question put and agreed to on the voices

11 CUSTOMS ACT 1913 - EXEMPTION FROM PAYMENT OF CUSTOMS DUTY

Mr Donaldson, Minister for Finance, pursuant to notice, moved -

THAT, under subsection 2B(4) of the Customs Act 1913, this House recommends to the Administrator that the goods specified in the first column of the Schedule imported by the person specified opposite, and on the conditions mentioned, in the second column of the Schedule be exempted from duty -

SCHEDULE**Column 1****Goods**

**Ambumanikin/Airways Trainer -
Amount of duty applicable \$577.30**

Column 2**Importer/conditions**

**St. John Ambulance Brigade, Norfolk
Island Division
Conditions - Nil**

Debate ensued

Question put and agreed to on the voices

The Speaker took the Chair at 12.09 pm

12 IMMIGRATION ACT 1980 - APPOINTMENT OF PERSON TO IMMIGRATION COMMITTEE

Mr Gardner, Chief Minister, pursuant to notice, moved –

THAT for the purposes of subsection 6(4) of the *Immigration Act 1980*, this House recommends the appointment of –

Andre Neville Nobbs

as a member of the Immigration Committee for the period 22 July 2004 to 21 July 2006

Debate ensued

Question put and agreed to on the voices

13 ADMINISTRATIVE REVIEW TRIBUNAL (AMENDMENT NO. 2) BILL 2004

Mr Gardner, Chief Minister, pursuant to notice, presented a Bill for an Act to amend the *Administrative Review Tribunal Act 1996* and moved –

THAT the Bill be agreed to in principle

Paper: Mr Gardner tabled the explanatory memorandum to the Bill

Debate ensued

Standing Orders suspended on the motion of Mr Brown to allow the Bill to be passed through all stages at this sitting

Bill agreed to in principle on the voices

Leave granted to dispense with the detail stage

Mr Gardner moved –

THAT the Bill be agreed to

Question put

Bill agreed to on the voices

14 INTERPRETATION AMENDMENT BILL 2004

Mr Donaldson, Minister for Finance, pursuant to notice, presented a Bill for an Act to amend the *Interpretation Act 1979* and moved -

THAT the Bill be agreed to in principle

Paper: Mr Donaldson tabled the explanatory memorandum to the Bill

Debate ensued

Bill agreed to in principle on the voices

Standing Orders suspended on the motion of Mr Brown to allow the Bill to be passed through all stages at this sitting

Leave granted to dispense with the detail stage

Mr Gardner moved –

THAT the Bill be agreed to

Question put

Bill agreed to on the voices

The Speaker suspended the sitting at 12.38 pm until 2 pm

The House resumed at 2.02 pm, the Deputy Speaker taking the Chair

15 FIREARMS AMENDMENT BILL 2004

Mr Buffett, Minister for Community Services and Tourism, pursuant to notice, presented a Bill for an Act to amend the *Firearms Act 1997* and moved –

THAT the Bill be agreed to in principle

Paper: Mr Buffett tabled the explanatory memorandum to the Bill

Debate ensued

Debate adjourned (Mr Buffett) and the resumption of debate made an Order of the Day for a subsequent day of sitting

16 TELECOMMUNICATIONS (AMENDMENT NO. 2) BILL 2004

Mr Donaldson, Minister for Finance, pursuant to notice, presented a Bill for an Act to amend the *Telecommunications Act 1992*
And moved –

THAT the Bill be agreed to in principle

Paper: Mr Donaldson tabled the explanatory memorandum to the Bill

Debate ensued

Standing Orders suspended on the motion of Mr Brown to allow the Bill to be passed through all stages at this sitting

Bill agreed to in principle – Ms Nicholas dissenting

Leave granted to dispense with the detail stage

Mr Donaldson moved –

THAT the Bill be agreed to

Question put

Bill agreed to – Ms Nicholas

17 LEGISLATIVE ASSEMBLY (AMENDMENT NO. 1) BILL 2004

Mr Gardner, Chief Minister, pursuant to notice, presented a Bill for an Act relating to the qualification of electors, absentee voting and related matters and moved –

THAT the Bill be agreed to in principle

Paper: Mr Gardner tabled the explanatory memorandum to the Bill

Debate ensued

Debate adjourned (Mr Gardner) and the resumption of debate made an Order of the Day for a subsequent day of sitting

18 LEGISLATIVE ASSEMBLY (AMENDMENT NO. 2) BILL 2004

Mr Gardner, Chief Minister, pursuant to notice, presented a Bill for an Act relating to the marking of ballot papers at elections and moved –

THAT the Bill be agreed to in principle

Paper: Mr Gardner tabled the explanatory memorandum to the Bill

Debate ensued

Debate adjourned (Mr Gardner) and the resumption of debate made an Order of the Day for a subsequent day of sitting

19 PUBLIC MONEYS AMENDMENT BILL 2004

Mr Donaldson, Minister for Finance, pursuant to notice, presented a Bill for an Act to amend the *Public Moneys Act 1979* and moved –

THAT the Bill be agreed to in principle

Paper: Mr Donaldson tabled the explanatory memorandum to the Bill

Debate ensued

Debate adjourned (Mr Donaldson) and the resumption of debate made an Order of the Day for a subsequent day of sitting

20 LEGISLATIVE ASSEMBLY (REGISTER OF MEMBERS' INTERESTS) BILL 2004

Debate resumed (Mr Gardner, Chief Minister) from 26 May 2004 on the question – That the Bill be agreed to in principle

Question put

Bill agreed to in principle on the voices

Detail stage:

Mr Gardner moved that the detail stage amendments dated 16 July 2004 and circulated to Members be taken as read and agreed to as a whole (see Attachment "A" to these minutes)

Debate adjourned (Mr Brown) and the resumption of debate made an Order of the Day for a subsequent day of sitting

21 APPOINTMENT OF ADDITIONAL STANDING COMMITTEES

Debate resumed (Mr Nobbs) from 17 March 2004 on the question – That the motion be agreed to

Mr Nobbs moved the following amendments:

That Order of the Day listed on the programme for the resumed sitting of 11 August 2004 be amended by the deletion of all words after "THAT" and the insertion of the following:

"1) the following new Standing Order be inserted after standing order number 20:

'20A Impact of Bills and Subordinate Legislation Committee

1) An Impact of Bills and Subordinate Legislation Committee, to consist of three permanent members and an alternate member to act when a permanent member is unavailable due to illness; is off Island; or nominates to be absent due to a conflict of interest or some other reason, shall be appointed as soon as practical after the opening of a new House.

2) The Committee shall consider whether –

**a) clauses of bills introduced into the Legislative Assembly; and
b) any instruments of a legislative nature tabled in the Legislative Assembly which are subject to disallowance and or disapproval by the Legislative Assembly (including a regulation, rule or by-law) made under an Act –**

- i) are consistent with principles of natural justice;
- ii) do not trespass unduly on personal rights and liberties or impose obligations retrospectively;
- iii) have sufficient regard to Norfolk Islands traditions and culture;
- iv) have objectives which could have been achieved by alternative or more effective means;
- v) are sufficiently clear and precise and do not require elucidation;
- vi) contain no duplication, overlapping or conflict with other Acts;

and -

c) The costs associated with implementation and operation of the legislation have been clearly identified and are acceptable.

- (3) The Committee, for the purpose of reporting on the matters to be addressed in paragraph (1), may consider any proposed law or other document or information available to it, notwithstanding that such proposed law, document or information has not been presented to the Legislative Assembly.
- (4) The Committee shall elect as chairman a member appointed to the committee.
- (5) The chairman may from time to time appoint a member of the Committee to be deputy chairman, and the member so appointed shall act as chairman of the Committee when there is no chairman or the chairman is not present at a meeting of the Committee.
- (6) The Committee may appoint, with the approval of the Speaker, counsel to advise the Committee.
- (7) The Committee shall report to the Legislative Assembly on its deliberations and recommendations at the meeting next following a reference under standing order 156A or 179A and if it does not do so then unless the House gives leave to report at a later date the Committee is deemed to have approved the Bill or regulation referred to it.
- (8) Except as they may be inconsistent herewith, the provisions of Standing Orders 200-221 apply to this Committee;

and

2) The following new Standing Order 156A be inserted after Standing Order 156:

'156A. After a Bill has been presented, the Bill other than a money Bill or a Bill transmitted to the House by the Administrator, shall be referred to the Impact of Bills and Subordinate Legislation Committee'; and

3) The following new standing order 179A be inserted after Standing Order 179:

'179A. After a Regulation has been laid before the Legislative Assembly under section 41 of the *Interpretation Act 1979* the Regulation shall be referred to the Impact of Bills and Subordinate Legislation Committee.'".

Debate ensued

Ms Nicholas moved:

Paragraph 1

Delete "20A Impact of Bills and Subordinate Legislation Committee"

I Insert: "20A Impact of Bills Committee"

- 1) An Impact of Bills Committee, to consist of three permanent members and an alternate member to act when a permanent member is unavailable due to illness; is off island; or nominates to be absent due to a conflict of interest or some other reason, shall be appointed as soon as practical after the opening of a new House.

Paragraph 1, 20A, (2)

Delete paragraph, insert the following:

- 2) "The Committee shall have power to consider any Bill referred to it by the House under standing order 159 to ensure that -
 - i) it is consistent with principles of natural justice;
 - ii) it does not trespass unduly on personal rights and liberties or impose obligations retrospectively;
 - iii) it has sufficient regard to Norfolk Island traditions and culture;
 - iv) it has objectives which could not have been achieved by alternative or more effective means;
 - v) It is sufficiently clear and precise and does not require elucidation;
 - vi) it contains no duplication, overlapping or conflict with other Acts; and
 - vii) costs associated with implementation and operation of the legislation have been identified and are acceptable.

Paragraph 1, 20A, (3)

Line 2, change (1), to (2).

Paragraph 1, 20A, (7)

Delete and Insert the following:

The Committee shall report to the Legislative Assembly on its deliberations and recommendations at the meeting next following a reference under standing order 159 and if it does not do so then unless the House gives leave to report at a later date the Committee is deemed to have approved the Bill referred to it.

Paragraphs 2 and 3, page 2

Delete".

Debate adjourned (Mr Nobbs) and the resumption of debate made an Order of the Day for a subsequent day of sitting

FIXING OF THE NEXT SITTING DAY

Mr Gardner, Chief Minister, to move –

THAT this House resolves –

- a) to next meet at 3pm on Wednesday 18 August 2004 at a Ceremonial Sitting to mark the 25th Anniversary of the Inaugural Sitting of the Legislative Assembly: and the proceedings of the day be as ordered by the Speaker to observe the dignity of the occasion; and
- b) to sit on 19th August 2004 at 2 pm for the purpose of conducting its usual business. The Notice Paper for this sitting will close at 4 pm on 12th August 2004 and the Programme at 10 am on 17th August 2004

Question put and agreed to on the voices

22 ADJOURNMENT

Mr Nobbs moved –

THAT the House do now adjourn

Debate ensued with Mr Gardner participating

Question put and agreed to on the voices

AND THEN the House at 4.16 pm adjourned until Wednesday 18 August at 3 pm

Robin-Eleanor Adams

Clerk to the Legislative Assembly

MEMBERS PRESENT: All Members were present except on 11 August 2004 and on 21 June except Robinson and Mr Buffett by leave