

**PRAYER**

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

**PRESENTATION OF PETITIONS**

Are there any petitions this morning?.

MR DONALDSON Thank you Mr Speaker. I've been asked to present a Petition from certain residents of Norfolk Island requesting the Legislative Assembly amend the Road Traffic (Amendment) Bill to 1. Not make the wearing of seatbelts compulsory; 2. Not implement random breath testing; and Not prohibit people over the age of 5 years from sitting down in the tray of a truck (with sides of 300 mm or more) while the truck is in motion. There are 325 signatories to the petition. Mr Speaker, Standing Orders of the Legislative Assembly in particular Standing Order 86 precludes discussion on the subject matter of a petition at this point in the proceedings of the House. Thank you Mr Speaker, I table that petition

MR GARDNER Mr Speaker I present a Petition from certain electors of Norfolk Island who support the Norfolk Island Legislative Assembly re-instating a "First Past the Post" voting system whereby each elector is given one vote of equal value for each candidate of their choice, to fill the number of vacancies created by any election called for by the Norfolk Island Legislative Assembly. There are 49 signatories to the petition. Mr Speaker, Standing Orders of the Legislative Assembly in particular Standing Order 86 precludes discussion on the subject matter of a petition at this point in the proceedings of the House. Thank you Mr Speaker, I table that petition

**GIVING OF NOTICES**

There are no notices this morning.

**QUESTIONS WITHOUT NOTICE**

We move to questions without notice - Are there any questions without notice

MR NOBBS Mr Speaker I ask the Minister for Finance will you be making a statement on the progress of the proposed overlay of the Norfolk Island airstrip

MR DONALDSON Mr Speaker it hadn't been my intention but I could make a statement now or take a question

MR NOBBS If you are not making a statement I will proceed with questions. Have tenders closed for the works to be constructed on this and are you prepared to make any comment on the tenders received

MR DONALDSON Yes I will. Tenders were called for the reseal of the runway. We received three tenders from three interested parties. Those tender documents were processed and opened at 8.30 am on Tuesday 20<sup>th</sup> July. There was a public opening of the tenders and various Members of the public and the Administration were present at the opening. In all three tenders were received. Those tenders are currently being assessed by the Administration and by the Project Managers. I will make a statement not as to the exact value of the tender but as to the indication of what the costs of the tenders are. We were expecting a tender of around \$5.8 to \$6m. Regrettably the three tenders that have come

through are all approximately twice that amount. We are currently negotiating with the Commonwealth for a variation to the loan agreement to be secured when we were expecting tenders to be around the \$5.8m mark and those negotiations continue. There is no finality to the matter at this stage

MR NOBBS Mr Speaker I understand that Minister you were prepared to comment as to why the price is as such, given that the tender of 12 years ago I understand was about \$2.8m before additions were made later on in the contract of course, and it appears that this is about four times as much, so a 400% increase. Have you any comments to make on that and will we be proceeding with these tenders and will there be a retendering process

MR DONALDSON Mr Speaker in answer to the last part first, the matter is being referred to the project managers and being discussed with the project managers in the Administration. No decision has been made as to whether we re-tender or renegotiate with the highest or the lowest tenderer. As to the reason as to what might be considered a blowout in the costs, I haven't been given any specific reasons. It has been suggested that the rock royalty and the cost of rock generally have contributed to it but I do point out that the expectation of rock usage in the reseal process is about 25,000 tonnes. I don't know what cost has been incurred in the tender documents for each tonne of rock but even if it was \$100 per tonne which is quite substantial, it would only come to \$2.5m and that doesn't explain the increased costs. The increased costs must lay elsewhere in getting the equipment to Norfolk Island, the labour costs and whatever other costs are associated with the project

MR NOBBS Mr Speaker a supplementary. Minister you mentioned that it was a public opening of the tenders. Why weren't Members of the Legislative Assembly advised of this was the first question and the second question, would all Administration tenders in the future be opened in public

MR DONALDSON Mr Speaker I'm not sure what the reason for the public opening of tenders were, but I have a list of names of the people who were present there and there were ten people present at the time of opening and five of them were Administration people and five were interested parties. I think part of the reason why it was opened in public was to keep everything in full view of the public so it was subject to public scrutiny. As for future tenders being opened in public I suppose that depends on a case by case issue

MR NOBBS I ask the Minister responsible, the Chief Minister, what progress is being made in relation to the disputes in the Cascade Cliff Project and attendant issues in the subsequent crushing contract. Are you able to answer that

MR GARDNER Thank you. I have been provided with a briefing on developments in relation to the dispute over the Cascade Cliff project and have been advised that the parties are making headway in finding a resolution to that dispute. I am conscious Madam Deputy Speaker of being very careful not to impinge or go overboard as far as any type of response or legal view in relation to that dispute other than to say in my view, excellent progress has been made in that area and I hope in the not too distant future to be bringing back a range of proposals in relation to that for Members consideration and at an appropriate time make a public announcement on the resolution of that dispute which has now been ongoing for quite some many years

MR NOBBS I have one for the Minister for Education. I asked at the last meeting what effects measures announced last year by the New South Wales Government ensuring that teachers return from administrative to cold face teaching, whether its supposedly to create major savings and I ask what effect it had on Norfolk Island's

escalating costs of education. Minister I wonder if you are able to answer that now and also an additional one was whether the changes to procedure were part of negotiations in the recently completed salary increase for teachers, including those at the Norfolk Island Central School

MR D BUFFETT Madam Deputy Speaker, the earlier decision of a little while ago of which Mr Nobbs is enquiring related to student teacher ratio and that was an effort as I understand it to increase the face to face arrangement between student and teacher. It may have had significant impact elsewhere but the arrangement that is proposed is to come into effect at the beginning of the academic year 2005 and that includes in Norfolk Island where-ever that may be applicable. The projections for our class numbers commencing in the academic year 2005 and they can only be projections at this moment, indicate that there won't be any impact in terms of financial arrangements, in other words, there will be no additional finance required in our particular context to attend to that matter

MR NOBBS could I ask the Minister for Finance, what is happening with the Administration proposed debt policy

MR DONALDSON Madam Deputy Speaker, I must admit the Administration debt policy as it relates to serving summonses by mail and charging interest on overdue debts has stalled. I haven't received any update on that project for several months now

MR NOBBS I ask the Minister responsible for the Public Service what's happened to the job evaluation process which was being undertaken and seems to be an ongoing saga within the Public Service Minister, has it been completed yet

MR D BUFFETT Madam Deputy Speaker, it is an ongoing arrangement. It did strike some significant difficulties some little while ago but the head of the Public Service has advised me that the management group has taken some further initiatives with the staff consultative group of recent weeks to try and exhibit some more up to date arrangement but I think I can only say to you that it is still in the consultative phase but since you last enquired there have been further initiatives to try and bring that matter to a finality

MR BROWN Madam Deputy Speaker, I direct this question to the Minister with responsibility for the Public Service. Can the Minister advise when the community can expect to be provided with a detailed response to the letter from the group called Residents Against Corruption on Norfolk Island

MR D BUFFETT Madam Deputy Speaker, I think I responded in part to this on another occasion and it was to explain to Members that as part of the evaluation process of complaints and difficulties lodged about the Service there was a significant programme known as the ethics programme being developed and has now reached an advanced stage in that there is now a programme in place with appropriate officers identified as to where complaints can be lodged and there is a policy document which dictates how complaints are to be received and evaluated. I did offer to Members, I think it was probably two weeks ago now, an opportunity to a) receive the report that had been lodged with me which advised of that information and also I offered Members an opportunity to be briefed by a senior officer of the service as to how the most recent letters of complaint including the one Mr Brown has referred to, has been evaluated in that process. I did at that time indicate that I would have done that last Monday if I remember correctly. The reality was that the appropriate officer was not on island at this moment and I think I probably neglected to explain that to Members when we met last Monday and that is scheduled for the week that is to come so there is now a particular programme that is in place. It has evaluated the complaints referred to and that will be explained to Members in some further detail but Madam Deputy Speaker whilst I'm on this I should also explained that there are further

measures that are being pursued and undertaken including in the end of the process some legislative measures that will strengthen and widen the complaints hearing programme. Members may remember that we had the distinct advantage of having the Commonwealth Ombudsman come and speak to us about Ombudsman processes because we were entertaining the idea that we should enter into such an arrangement and Members will recall that we have been enthusiastic about that. It was a very fruitful visit but one of the things that was mentioned by the Ombudsman was that in his experience one of the first things that an Ombudsman encourages is stronger internal complaints procedures and the Ombudsman explained that, that would be the encouragement to people who had complaints to try and have them resolved with the internal complaints process and if I might just then say, that what has been done in terms of the ethics programme is part of the process to strengthen the internal complaints processes. That doesn't mean that the complaints just come internally. It means complaints from outside about an organization, that organization is equipped to look at those complaints and make responses to them. Some people of course make the comment then, oh there are opportunities for whitewash in an internal sense. If they work well, those opportunities should be significantly limited but if in fact there is thought, and dissatisfaction with that process, the next stage that the Government has endeavoured to work to is to have an Ombudsman process so that there can be stages which people can address their complaints if in fact they remain dissatisfied with any parts of the process and what I've endeavoured to respond to now, is the first part of that process, strengthening the internal arrangements. At a later time it is proposed that there will be an Ombudsman arrangement which will then allow the next stage to be achieved so that people can see the full spectrum and take advantage of that if in fact they feel aggrieved in any way. I'm sorry to go on about that but I thought it important to spread out the whole picture or a significantly larger picture than just the particular question that has been raised at this moment

MR BROWN A further question in relation to the same matter. Can the Minister advise whether the sum total result of the investigation of the Residents Against corruption on Norfolk Island complaint has been the granting to two officers, permission to have second jobs

MR D BUFFETT Madam Deputy Speaker, I seem to recall that a similar question came to me at our last sitting and I undertook at that time that it would be best that Members have first hand information from the public officer who has responsibility in processing those and a more precise answer could be given at that time, and I'm happy to make that answer then public in the context of the question that has been raised

MR NOBBS I ask the Chief Minister. Chief Minister will you given the publicity in recent days, including claims of selling off Norfolk Island in relation to the Norfolk Island Government's position on the transfer of land from the Commonwealth

MR GARDNER Madam Deputy Speaker, I hadn't proposed to make a statement at this time. Certainly my belief and understanding is that the Minister who had carriage of that matter, our departed colleague the Hon Ivens Buffett MLA had made the Norfolk Island Government's position over a number of years very clear in relation to the land transfer, the more recent publicity that has arisen in this matter Madam Deputy Speaker really is a repeat of similar publicity that was around the traps about twelve months or so ago and Madam Deputy Speaker some of the people obviously who have been quoted in that latest publicity firstly haven't been to Norfolk Island and secondly hadn't done a great deal of research and have been making some very uninformed comments to the media that have enflamed a very good working relationship between officers of the both the Norfolk Island Government and Commonwealth with regard to the transfer of land and certainly our discussion yesterday with Minister Lloyd confirmed the Norfolk Island Government's understanding and reconfirmed the Commonwealth's acceptance and willingness to continue with the land transfer as had been agreed

DEPUTY SPEAKER Are there any further Questions Without Notice Honourable Members. Then we move on to Papers

### **PRESENTATION OF PAPERS**

Are there any Papers for presentation Honourable Members

MR D BUFFETT Thank you Madam Deputy Speaker I have two sets of Regulations to table. They are similar subject matters. One is the Mental Health Regulations 2004 and the other is the Mental Health (Amendment) Regulations 2004 and I table those regulations

MR DONALDSON Thank you Madam Deputy Speaker. In accordance with section 41 of the Interpretation Act 1979 I table the Airport (Amendment No. 2) Regulations 2004

### **STATEMENTS**

Are there any Statements of an official nature. No. We move on

### **MESSAGES FROM THE OFFICE OF THE ADMINISTRATOR**

DEPUTY SPEAKER Message No. 33. On 12 August 2004 pursuant to section 21 of the Norfolk Island Act 1979 I declared my assent to the Criminal Law (Amendment) Act 2004 (Act No 12 of 2004) and the Mental Health (Amendment) Act 2004 (Act No 13 of 2004). The message is dated the 12<sup>th</sup> August 2004 and is signed Grant Tambling, Administrator

Message No. 34 On 17 August 2004 pursuant to section 21 of the Norfolk Island Act 1979 I declared my assent to the following, the *Administrative Review Tribunal (Amendment No. 2) Act 2004*, (Act No 14 of 2004) the *Interpretation Amendment Act 2004* (Act No 15 of 2004) and the *Telecommunications (Amendment No. 2) Act 2004* (Act No 16 of 2004). The message is dated the 17<sup>th</sup> August 2004 and is signed Michael Stephens, Deputy Administrator

*We move now to Notices, Honourable Members*

### **ANNUAL REPORTS BILL 2004**

MR BUFFETT Madam Deputy Speaker I present the Annual Reports Bill 2004 and I move that the Bill be agreed to in principle

DEPUTY SPEAKER The question is that the bill be agreed to in principle

MR D BUFFETT Madam Deputy Speaker, this Bill is one that is to be introduced to strengthen our accountability processes. It is intended to give effect to various undertakings given by the Government and by appropriate executive Members to provide a comprehensive annual reporting regime for the Administration and for various bodies established for public purposes. Whilst it is already the case that most Government entities are obliged to provide reports, not all of them have a time requirement by which reports are to be completed and presented to the Legislative Assembly and be available for public scrutiny and so this Bill in part addresses that. The purpose is to provide that all Government entities prepare and submit to the Assembly a report about their activities for the financial year before the expiration of three months after the end of that year and rather than try and provide an exhaustive statement of the content of each kind of report the

executive responsible for the administration of the Act will be required to issue directions as to the manner content, form of reports so that there might be some standardization in a number of ways. The responsibility to ensure that a Government entity prepared and delivers its annual report in a timely fashion is upon the executive Member responsible to the particular body through the enactment under which it has been established. The Bill recognizes that at times it mightn't be possible to meet the time constraints and so the Legislative Assembly is empowered to extend time at the requires of the executive member in appropriative circumstances. That's an overview of what this Bill is about. We have given undertakings in a number of areas Madam Deputy Speaker that we would wish to strengthen our accountability processes and this is one of them that we have undertaken to do and I'm pleased to table it today. It is not my intent Madam Deputy Speaker to ask Members to finalise it today, but to hear any comment or any debate upon it and seek that it be adjourned and finalised at a subsequent sitting

DEPUTY SPEAKER

Is there debate Honourable Members,

MR NOBBS

Madam Deputy Speaker. This is really an unfortunate Bill because it would normally be expected that an organisation would automatically provide Annual Reports but unfortunately the Norfolk Island Government has been criticized in the past and I think it was right from the 1997 Report by an earlier Joint Standing Committee Report and also the Grants Commission that questioned why Norfolk Island had trouble providing reports and unfortunately it appears that we need to now have legislation which covers it but the question really is, what happens if they don't comply. There don't seem to be any penalties in here so it's something that I feel is unnecessary. It should be up to the organization itself to provide it but I just question the Minister, he said within three months of the end of the financial year. Will the financial statements be available at that time to go along with that Annual Report, that's the only question I really have because it appears that what we were working at previously is that by October you would have the audited financial statements and at that time, maybe the report itself would not be tabled in the House until the November sitting which is four or five months down the track, but that's the only query I've got. I have no problems apart from I fear it's a bit unnecessary but we've put ourselves in the position that something has to be done, thank you

MR GARDNER

Madam Deputy Speaker, thank you. Just in relation to the provisions of the legislation, for certainly the time that I've been in this House, many pieces of legislation have obviously come before us that established statutory authorities, for example, the Gaming Authority is one of them, there has also prior to my time down here been obviously other pieces of legislation that have established certain bodies and from my recollection I believe that all of those bodies have in some statutory way, been required to provide reports. This tidies up I guess, the loose ends, those things that remain outstanding. As far as I think Mr Nobbs question which is very relevant in relation to what happens if those things don't happen, well those persons including the Chief Executive Officer and other people who have moved into the performance based contract system are required to be reviewed on their performance and I would very clearly see it as being an extra consideration that's taken into account when one is reviewing that sort of performance, whether it's an individual or one of the statutory bodies or as its referred to here, public sector agencies. Those are things that if they are not abided by have the potential to blot somebody's cv and I think it's important that, that be noted and taken into consideration but I welcome this, I think it brings all of our reporting structure in line with the many other pieces of legislation that's been passed by this House in establishing statutory bodies and those territory instrumentalities and also the public sector agencies. Thank you

MR DONALDSON

Madam Deputy Speaker, this legislation was prompted by recommendations 14,15 and 16 of the Joint Standing Committee. In our Governments response to the Joint Standing Committee where they were a little critical of not having statutory deadlines to some reports, we responses as a Government saying that the g4



you basically needed to be a one legged blind aboriginal person with a long Maori history and perhaps some connection to the Torres Straits to ..

MR NOBBS I don't think we should get race etc mixed up in a debate such as this

MR BROWN Madam Deputy Speaker my point is that the criteria for a successful application for a grant of legal aid was almost impossible to achieve

DEPTY SPEAKER Mr Nobbs I do believe that Mr Brown is in order in referring to the Torres Strait Islanders and people of Maori descent in the context of his debate. I see no point of order Mr Nobbs. Thank you Mr Brown

MR BROWN Madam Deputy Speaker as I said it was extremely difficult for people to obtain an approval. In more recent time, perhaps with the more enlightened executive Member there have been a number of grants of Legal Aid which have been of significant assistance to the people who received it. A system has existed where by the Commonwealth has made a certain contribution each year and we have made a contribution each year to the Legal Aid Fund. Unfortunately we are now at a stage where the Norfolk Island Government has stopped making contributions and so too have the Commonwealth and this has occurred at a time when we may find that a very significant call on the Legal Aid Fund as a result of outstanding police investigations. The Norfolk Island Government has made proposals for changes in relation to Legal Aid and those proposals as I understand it, rest with the Commonwealth at this stage. Dealing with them has been delayed by a recommendation of the Joint Standing Committee but I think if we look carefully at that Joint Standing Committee recommendation it is limited to suggesting that Legal Aid should be granted to people in order to assist them to challenge decisions of the Norfolk Island Government. I'm not sure of the basis on which those challenges would come about because at present our Administrative Review Tribunal is limited to dealing with land matters. We have not yet introduced Freedom of Information Legislation and Ombudsman Legislation and similar. We have not yet widened the scope of challenging decisions in Norfolk Island. No doubt those issues will be addressed. I had hoped that the Administration of Norfolk Island would embrace a suggestion that was made to the effect that we should commence with a voluntary Freedom of Information scheme where although the legislation might not exist, people would be able to write in and seek information and be provided with it. Unfortunately the Administration has rejected the only application of which I am aware in that regard and so it is yet another example of the views of one end of Kingston being very different to those in this place. The Legal Aid Committee has made various recommendations to improve issues of access to justice and to improve the system of justice in the island. Issues in relation to the system of justice have included a recommendation that the Legal Aid Scheme Fund a video system for the court providing an ability for evidence to be provided on live video from other places and providing a reverse ability such that people in Norfolk Island would be able to sit before the video system and give evidence to courts certainly in Australia and perhaps also in New Zealand so reducing the cost of justice and so making everything much more efficient and much more convenience to our local community. I hope that the Commonwealth will embrace that suggestion because it is a very worthwhile suggestion. I hope the Commonwealth will embrace the other suggestions that have been made by the committee in terms of access to knowledge of the law. Having said all of those things I read the report with interest. I commend to the responsible executive the need to continue to encourage the Commonwealth to deal quickly with the material which is presently before them and I am very pleased with the progress that has been made by the Norfolk Island Government in this regard

MS NICHOLAS Thank you Mr Speaker, I am disturbed to read the paragraph in the Legal Aid Advisory Committee's Annual Report which tells us that the

Australian Government is postponing consideration of the proposed amendments to the Memorandum of Understanding between us because of a report being prepared by the Joint Standing Committee. We've recently received the most recent Joint Standing Committee report, the one into the Department of Transport and Regional Affairs Annual Report, and it says, at recommendation 23, "that the Federal Government take immediate steps to extend access to legal aid to those Island residents seeking to appeal or have reviewed the decisions of Norfolk Island Government Ministers and officials affecting them." The body of the report goes into more detail but refers constantly to extending the provision of legal aid. Certainly there is no suggestion that the whole issue should grind to a halt. We've recently had legislation declined because we sought to extend the arena of the Administrative Review Tribunal into Immigration matters. That's us seeking to do exactly what the Joint Standing Committee is saying should happen, and the Administrator has declined to assent to the Bill. We are told that the issue falls outside our scheduled responsibilities. There has been significant work done on the legal aid question Mr Speaker and Mr Brown has detailed a fair bit of that. There has been a draft Memorandum of Understanding compiled following the Review of the Legal Aid Scheme prepared by Chris Staniforth of the ACT's Legal Aid Commission. There is a draft Legal Aid Amendment Bill. There are funds available to provide the aid. Yet it seems that all that work has come to a halt whilst we await another critique from the JSC. I shake my head Mr Speaker because it is difficult to know what is really going on here. On the one hand we are being told to extend and on the other it seems we are being cut off. I simply don't understand.

MR GARDNER

Mr Speaker thank you and thanks also to the contribution of Mr Brown and Ms Nicholas in relation to this. There are a few points that I would like to talk to Mr Speaker if I can and I thank Mr Brown for his declaration of his interest in this matter. I have often talked to Mr Brown about the effectiveness of the provisions because it's always good to go to the source and the people who benefit from this to find out whether the mechanisms are working or not and I would like to thank him and others who have been involved in the system of over as number of years certainly for their input into the development of the Memorandum of Understanding and the draft legislation that we've had and to my recollection I think fully and unanimously supported both the changes to the Memorandum of Understanding and the draft legislation by Members of the Legislative Assembly, I guess, the in principle agreement for it to go to the Commonwealth in that state is a very clear indicator of how we think the Legal Aid scheme on Norfolk Island could be improved. Ms Nicholas was talking about the declining of the legislation in relation to our Administrative Review Tribunal and the matters it can look at. It needs to be said as Ms Nicholas quite correctly said, it was an immigration matter that brought that to a standstill. That's a Schedule 3 matter. It is within our responsibilities to legislate for those sorts of things but there is an assent process that it has to go through and I would certainly hope Mr Speaker in the Commonwealth's infinite wisdom that they will get the advise that it required to eventually assent to that piece of legislation so that the efficiencies of the appeals process as far as immigration can be boosted up a notch or ten so that people are able to have their matters dealt with effectively and efficiently and not in the manner that they have to date. I spoke at budget time in this House about the need to be conscious of the proposed amendments and changes to the Legal Aid system and that there may well be a call, a need for a call for funding at budget review and not to just put it out of our minds that it is something that has conveniently gone away and that there's plenty of money in the kitty to support Legal Aid. That is simply the wrong attitude to take in relation to this. As I said at the last sitting of the House there's some \$440,000 that is in that scheme at the moment which is well in excess by some \$190,000 of the agreed ceiling between the Commonwealth and the Norfolk Island Governments in relation to the balance of the Legal Aid fund. The Commonwealth and Norfolk Island Governments have continued to contribute. I think the Commonwealth's last contribution was in the 2003 financial year. Our last contribution was the year before that because that ceiling had already been reached and there have been also additional contributions that have been made to the balance of that fund over time from certainly the interest received and also the other contributions from

legal trust accounts and bank accounts and term deposits. Mr Speaker I would like to commend the Legal Aid Advisory Committee that we have on Norfolk Island for the work that they have put in and they have been busy and they have given a great deal of attention to proposing to amend our legislation and the Memorandum of Understanding to ensure that the provisions of Legal Aid services is something that is far more easily accessible to people on Norfolk Island than it currently is and in relation to that they had made a proposal to me as the responsible executive Member to look at the best way to invest those funds so that they get the best bang for the buck so to speak as far as investments are concerned They made certain proposals. Those things have been adopted and put in place in ensuring that we are getting the best bang for our buck. Also yesterday the Federal Minister Jim Lloyd spoke to Members of the Legislative Assembly. There was an opportunity to cover a number of issues and one of those, whilst I guess the stalling of progress on the review and update of the Legal Aid system for Norfolk Island he gave all of us who were in attendance there, I think a good overview of where things were and discussed with us some of the complexities and some of the advise that he had to receive from a number of bodies. I guess I was a little taken aback that, that advise and that consultation hadn't already taken place. It's been with the Commonwealth for some twelve months now and I accepted the then Minister Campbell's advise in relation to the delay in dealing with the matters and ;providing further advise to the Norfolk Island Government based on the fact that the matter was under consideration as part of the review of the annual reports of the Department of Territories and Regional Services and the Department of Environment and Heritage for the year 2001/2002 or thereabouts and that until such time as that report was tabled in the House of Representatives he was loath to make any moves in relation to giving the tick of approval to amending the Memorandum of Understanding or even providing a tick of approval to the proposed amendments to our Legal Aid Act here on Norfolk Island. As I said to Minister Lloyd yesterday Mr Speaker, I was somewhat stunned and amazed that the Joint Standing Committee's Report, the only reference that they made to the provisions of legal aid services or how it had operated and the value of legal aid services to Norfolk Island was a reference suggesting that moneys from the Legal Aid system should be used as I think Mr Brown said, to review executive Members decisions made on Norfolk Island which just seemed as I said yesterday, outrageous. But that is all that's contained in the report so there is nothing further I believe that would prevent serious consideration being given to the amending proposals by the Commonwealth and Minister Lloyd and I would like to thank him for that. He's given a sincere undertaking to advance that as quickly as he possibly can. My request to him yesterday was to see whether it would be possible to be able to get a stamp of approval for that before we finish as an Legislative Assembly so that we would be able to move and pass the necessary proposed amendments to our Legal Aid Act. For different reasons, I understand that, that may not be possible but certainly he is keen to pursue those and keen to provide us with a response at an appropriate time and I look forward to that. I don't believe I have anything further to contribute at this stage in relation to it, but I do that Mr Brown for his comments and certainly wholeheartedly support his comments about the workings of the Legal Aid Advisory Committee and their best efforts to ensure that under the constraints that we have to live with, with the current Memorandum of Understanding and the legislation as it is, that they are doing their best to ensure that people in need for legal aid are being granted that legal aid and certainly I commend his words in relation to that, thank you

SPEAKER

Thank you Chief Minister. Is there further debate at this time. Then I put the question that paper be noted

QUESTION PUT  
AGREED

The ayes have it thank you, the paper is noted

## **SELECT COMMITTEE INTO ELECTORAL AND GOVERNANCE ISSUES**

Honourable Members, we resume debate on the question that the Report be adopted and Mr Brown, you have the call to resume in this matter

MR BROWN Mr Speaker thank you. When I moved the adjournment of this matter to today's sitting I didn't take account of the fact that today's sitting was in the afternoon. My expectation is that the debate of the Report is going to take us several hours and in the circumstances I feel that perhaps the most appropriate thing I can do is move an adjournment until our next meeting with a view to spending that few hours at that time and I so move

SPEAKER Thank you for that motion. Honourable Members, I put that to you. The question is that the debate be adjourned and resumption of debate be made an order of the day for a subsequent day of sitting

QUESTION PUT  
AGREED

## **FIREARMS AMENDMENT BILL 2004**

Honourable Members, we resume debate on the question that the Bill be agreed to and Mr Buffett, you have the call to resume

MR D BUFFETT Madam Deputy Speaker, I introduced this piece of legislation at an earlier time. It is not a lengthy piece of legislation but it is an important piece of legislation. I just remind Members that it is a reinforcement that one needs to be careful with firearms when they are discharged in Norfolk Island and this legislation strengthens that people must exercise care. They shouldn't discharge firearms in certain circumstances. Certainly if they do it on someone else's land they need to have permission, they need not to be firing across public roads and a range of similar provisions and the proposal is that we endeavour to finalise this piece of legislation today. I commend it to you Honourable Members

DEPUTY SPEAKER Is there debate Honourable Members. Being no debate I return to you Minister

MR BUFFETT The question is that the Bill be agreed to in principle and I move that the question be put

DEPUTY SPEAKER I put the question that the Bill be agreed to in principle

QUESTION PUT  
AGREED

The ayes have it thank you. The Bill is agreed to in principle

MR D BUFFETT Madam Deputy Speaker, I proposed that we dispense with the detail stage in this proposed legislation

DEPUTY SPEAKER Thank you. Is that the wish of the House to dispense with the detail stage? Then I seek a final call Mr Buffett

MR BUFFETT Madam Deputy Speaker, I move a final motion that this Bill be agreed to

DEPUTY SPEAKER Thank you. Is there debate?

MR GARDNER Madam Deputy Speaker, I apologise. I didn't mean to be quiet when you asked for debate earlier, but really just a bit of an overview of some of the words that have been expressed in relation to this piece of legislation. I support them wholeheartedly. It is a responsible course of action that's been taken just to tidy up some of the missing parts in our firearms legislation and I'm also pleased that Mr Robinson in his capacity as a Member of the Pistol Club has consulted with his Members about the provisions of this legislation and it appears that people are comfortable with it. If we are to have weapons of this type on Norfolk Island we have to ensure that they are properly and safely used and stored and dealt with and the particular provisions of this are about the responsible use of those firearms and I support them wholeheartedly

DEPUTY SPEAKER Thank you Chief Minister. Is there further participation in debate? No

MR D BUFFETT Madam Deputy Speaker, I'm very comfortable that we now agree the proposal that the Bill be agreed to

DEPUTY SPEAKER Thank you. Then I put the question that the Bill be agreed to

QUESTION PUT  
AGREED

The Bill is agreed to thank you

#### **LEGISLATIVE ASSEMBLY (AMENDMENT NO. 1) BILL 2004**

Honourable Members, we resume debate on the question that the Bill be agreed to and Mr Gardner, you have the call to resume

MR GARDNER Madam Deputy Speaker, as I provided last week in this House I think a very detailed overview of what the Legislative Assembly (Amendment No 1) Bill is all about, it is about trying to tidy up the processes. It deals with the qualifications of electors; it deals with the absentee voting and also other related matters as far as our electoral processes are concerned. Just to briefly run through those again, it deals with the amendments made to the qualifications of electors made by the Norfolk Island Amendment Act 2004 of the Commonwealth which amended in itself definitions, the electoral roll and who is entitled to be entered onto the electoral roll and the necessary qualifications for that. Madam Deputy Speaker it also makes some minor changes to nomination day and that nomination day be extended out from 21 days before a general election to 28 days. It also makes minor amendment to the period of time from when nominations close to when the candidates names are declared by providing a half hour window of opportunity or thereabouts for that to occur and certainly if it wasn't able to occur for some reason or some glitch it doesn't make it invalid, the process that is followed. It also makes changes to the way you represent your vote on the ballot paper by including now a tick where it used to be a cross. I think there have been variations in the past but under the provisions of this legislation, both are acceptable. It tides up some of the anomalies we have with the absentee and postal voting system, tidies some matters dealing with the marking of ballot boxes, the counting of postal votes, better defining the informal vote arrangement and also makes some minor amendments to the arrangements for compulsory voting as far as age or state of health and mind are concerned. I really do commend these amendments to the House. Many of them have caused headaches to people for quite some time over a number of electoral cycles. I guess it has always been a thought that we'll get that out of the way and we'll make sure we deal with it before the next election and even this time we've



QUESTION PUT  
 AGREED

The ayes have it thank you. The Bill is agreed to in principle

Is it the wish of the House to dispense with the detail stage? Thank you. I seek a final call Chief Minister

MR GARDNER  
 to

Madam Deputy Speaker, I move that the Bill be agreed

DEPUTY SPEAKER  
 be agreed to

Is there debate? Then I put the question that the Bill

QUESTION PUT  
 AGREED

The Bill is agreed to

**LEGISLATIVE ASSEMBLY (AMENDMENT NO. 2) BILL 2004**

Honourable Members, we resume debate on the question that the Bill be agreed to and Mr Gardner you have the call to resume

MR GARDNER Madam Deputy Speaker, in reviewing the debate that took place in the House last week in relation to this bill my rough scratching on a piece of paper seem to indicate that the Legislative Assembly were fairly evenly split on whether we should look at a first past the post system or sticking with the system that we currently have or supporting a proposed amendment or a variation on the system that we currently run where we reduce the number the maximum number of votes that any one person would be able to give to a candidate from a maximum as it currently stands of four to a maximum of two. Madam Deputy Speaker I referred to in debate in the last matter before the house the time frames and it is unfortunate again that we've got so close to the end of the term of a Legislative Assembly and we are trying to deal with an issue that there have been a number of recommendations made in regard to over a number of years and that is the type of voting system that we want and those recommendations supporting a change. Madam Deputy Speaker I probably should apologise in one thing that I really didn't take on board when reading the recommendations of our own Select Committee report in bringing this to the House is that I hadn't done the best I could to try and explain clearly to people what first past the post really meant and also I apologise for not clearly understanding that there's a lot of people with differing views in the community about what first past the post really means. I've referred to the various select committees over the years and I think last week I referred to the select committee of the Seventh Legislative Assembly who had made a number of recommendations and one of those included a recommendation to move to a first past the post system and falling that the recommendation pretty much of your proposal last week to reduce the maximum number of votes allowable to two. There has also in the intervening period been I think a couple of times that the issue has been canvassed by Joint Standing Committee's and other groups in debate in this House leading up to elections about desires to change it, and quite wide debate within the community about whether we should stick with what we've got or whether we should move to a different system. Of course that's been highlighted more recently with our own Select Committee report that hopefully we'll get around to discussing next month in detail but one of the very clear recommendations that it had come out of that, and I was part of that Select Committee and I don't mean to pre-empt debate on that matter but it is important that we highlight the consultancy or the consultation process that we've been through in bringing this legislation to the House and it was made very clear from that Select Committee 's efforts in sending out to people in the community a

questionnaire and trying to survey their views on their happiness or otherwise with the current system and if they weren't happy with that proposals for change. And I think I said in this House last week that there seemed to be overwhelming support from that survey and I think as Mr Brown may have said in debate it is probably the most outstanding response we've ever received to a survey, certainly in my memory that's gone out to the community and the responses have been received back and there were overwhelming numbers who supported a change from the current situation that we have. You will see on the programme today that there is a proposed detail stage amendment to the legislation. It is under my name and that really reflects I think what you were attempting to say last week and its put on the table for discussion and I'll come back to that because it looks to replace the maximum number of votes of four that are currently available under our system to a maximum number of two. Now the effect that, that will have on our current voting system and if I can just take a little time to explain how these things work, is that under our current system you are given nine votes. You can place a maximum of four votes beside any candidates name but you have to use up all nine votes so as it is you are voting for no less than three candidates but you are given the flexibility to vote for nine. Some people say they don't like that, that it seems to have an unfair weighting of a persons vote and maybe it skews the results. There's lots of different views about that. Some people even with that system argue that they find it difficult to find three candidates that they want to vote for, let alone nine, and this thread runs through all of the different options that are available. It's about finding the number of candidates. Do you have confidence in one or the other. Are you comfortable with your primary choice as a candidate to election to the Legislative Assembly only being provided an equal weighting to somebody you are not so confident in being elected to the Legislative Assembly and its important that we remember that that's a common thread to I think all of the proposals that we have. The changes that are proposed today, if you were to reduce it from the four to two as a maximum effectively what that does is force you as an elector to have to vote for a minimum of five candidates on the ballot paper but still be able to cast your votes up to a maximum of nine. The first past the post system that's being proposed with the legislation being tabled in the House gives you nine votes and means that you have to find nine candidates to vote for. In outlining that it is important to maybe touch on the call for input that I made last week and clearly I've been overwhelmed by the response to that call. It was printed in the paper and we've had a number of faxed responses and phone calls and I'm sure that Members around the table have been approached on the street by any number of people coming to them to give their views and that's so very, very important. It's supported by the presentation of the Petition earlier today in relation to this and some 49 Members of the community solidly supporting a first past the post system. But some of them and I refer back to the apology I made before, aren't quite clear exactly what we mean by first past the post and if you just bear with me for a second Madam Deputy Speaker I'll just look for the responses that were attached to our own Select Committee report some months ago and where we've made a recommendation in our report about reviewing our voting system we've based that on the responses that we've had and I guess to give a very broad brush overview of the responses received there were in favour from these responses some 56 persons for first past the post and that's all it said on their response form. Some 91 who said one vote per person and another 8 talking about a preferential system so the responses that we received didn't all say look, we want first past the post but were keen to see some change, some variation to that we have in place and I'll just read a few of the responses. First past the post, the same as in the Commonwealth, one vote per person, should be compulsory to vote at least four candidates using 9 votes, preferential, preferential voting number from one to nine, one vote per person, maybe maximum of three votes, maybe one candidate one vote, a maximum of two votes therefore voting for at least half the Legislative Assembly; there's a whole lot of different variations there to what we are talking about as a first past the post proposal and again I don't mean to pre-empt debate on a Select Committee report but it may be helpful for people to understand what it was that our Select Committee was proposing as a first past the post system and I read from 6(a)(vi); the voting system should be changed as soon as possible to the first past the post system such that each elector can provide a maximum of one vote

to any candidate with each elector having and being required to use as many votes as there are positions to be filled at the particular election of bi-election. The picture I'm trying to paint is one that I believe that there is a deal of confusion within the community about what we mean by first past the post. There's enough confusion as it is with our Illinois Cumulative System of trying to understand how it works and why it was put in place but it's something that we live with, it's something that I know Mr Ellicott mentioned yesterday was a matter that we needed to give serious attention to however, at the end of the day we needed to be happy with a system that elected 9 worthy individuals to this House to cater and care for the business of running Norfolk Island and I guess I'm hesitant to impose a new system when there is such a diverse range of views in place and I think very clearly a cry from the community to get a better understanding of what the systems are about and what is proposed. I really do appreciate the tremendous response that I've received and I'm sure other Members at the want to have a look at the voting system that we have on Norfolk Island and the best way to go about addressing that. Things are complicated, we do need some education, we do need further consolation and it's vital that an informed decision is made as it will hopefully stand us in good stead for the next 25 years with a bit of luck if we can get it right. I'm disappointed in the time frame and for leaving it so late and in our discussions with Minister Lloyd yesterday and subsequent discussions at various venues he very clearly indicated to me that a change made in the House today would very unlikely receive assent by the Commonwealth even though as I said in relation to the last bill the draft legislation was provided to the Commonwealth, he has very clearly indicated to me that it is doubtful that assent would be provided if we moved to change the system today, in advance of the general election on Norfolk Island and certainly that's not just because of the time frames that are involved for holding our own general election but simply that it is expected that the Commonwealth Parliament will sometime in the very near future and for that reason assent in the executive council processes in the Commonwealth Parliament will not be able to deal with the matter even if the advise to assent had been provided. In closing I provide an opportunity for Members to have some discussion about this and a long hard think about the responses that have come in, I want to emphasise the fact that I'm very grateful to people for the responses that they have provided and for their input and even if we can't resolve this today that we encourage Members of this Legislative Assembly to continue to revise and maybe publicise and educate people about the different proposals that are in place but certainly if we fail to make changes in this Legislative Assembly those in the next Legislative Assembly to encourage their colleagues to make sure that there is plenty of time available and the processes are gone through so that something can be put in place that will serve us well for the next 25 years

MR ROBINSON Madam Deputy Speaker it is interesting that there's a petition here for 49 people and only 52 submissions were put to our Select Committee on the issue. Is that correct

MR GARDNER Madam Deputy Speaker, just to assist in clarifying that I think it was somewhere in the region of 306 submissions received on the question about the current voting system but of that, those who said they were unhappy with the current voting system some 155 had made suggestions about their preferred option and that's where the breakdown came. The 56 for first past the post but without detailing their understanding of what first past the post was

MR ROBINSON So that really confirms the confusion in the community and I would imagine that the Minister will be adjourning debate on this issue as it is blatantly obvious that there is too much confusion in the community for us to decide on how they want to vote when I don't think a lot of people out there know how they want to vote themselves so I look forward to Mr Gardner's adjournment

DEPUTY SPEAKER Thank you. Is there further debate at this time. Chief Minister I return to you

MR GARDNER Madam Deputy Speaker, I move that the debate be adjourned and resumption of debate be made an order of the day for a subsequent day of sitting

DEPUTY SPEAKER Thank you. Then I put the question for adjournment

QUESTION PUT  
AGREED

The ayes have it thank you, that motion is adjourned

### **PUBLIC MONEYS AMENDMENT BILL 2004**

Honourable Members, we resume debate on the question that the Bill be agreed to and Mr Donaldson, you have the call to resume

MR DONALDSON Thank you Madam Deputy Speaker at the last meeting which was only a week ago I presented the Public Moneys Amendment Bill. I pointed out a few things about the Bill that has created a new fund within the public account of Norfolk Island that new fund being called the Reserve Fund. Within that revenue fund new heads of the fund can be started up. The purpose of the revenue fund is to quarantine funds for the future replacement of essential capital equipment as part of the strategic financial planning process that's being undertaken in the Administration. It's also got controls in it that prevent once a fund is established from it being spent on other purposes except to the extent that it's been approved by the Legislative Assembly. It's not a major change to the Public Moneys Act but it is a responsible change and unless anyone wants to debate the matter further or contribute I'll move that the Bill be agreed to in principle

MR NOBBS Madam Deputy Speaker I spoke on it last week and I think I commended the Minister on bringing it in. it's just that as far as extracting moneys from the funds it's up to the motion of the Legislative Assembly but I think somewhere it says that in relation to the Government Business Enterprises that the Minister has the ability to move funds as he so desires

MR DONALDSON Madam Deputy Speaker, I'm working from memory at the moment but it requires an appropriation of the House to put money into the revenue fund that's created for revenue fund purposes but the Minister who is in charge of the Government Business Enterprises can put money in there the same way he can approve expenditure. That doesn't need Legislative Assembly approval to put money into a head of a fund but it certainly needs Legislative Assembly approval to take money out

DEPUTY SPEAKER Is there further debate? I put the question that the Bill be agreed to in principle

QUESTION PUT  
AGREED

The ayes have it thank you. The Bill is agreed to in principle

Is it the wish of the House to dispense with the detail stage? Thank you. I seek a final call Mr Donaldson

MR DONALDSON Madam Deputy Speaker, I move that the Bill be agreed to



DEPUTY SPEAKER Thank you. Is that understood Members. You have the amendment before you. Is there any debate?

MR GARDNER Madam Deputy Speaker I move that the amendment to the amendment be agreed to

QUESTION PUT  
AGREED

The ayes have it. I now put the question that the amendments as amended be agreed to

QUESTION PUT  
AGREED

The ayes have it. I now put the question that the clauses as amended be agreed to

QUESTION PUT  
AGREED

The ayes have it. Final question that the remainder of the Bill be agreed to

QUESTION PUT  
AGREED

The ayes have it. Chief Minister I seek a final motion

MR GARDNER Madam Deputy Speaker, I move that the Bill as amended be agreed to

DEPUTY SPEAKER Thank you. Is there debate Honourable Members.

MR GARDNER Madam Deputy Speaker, I thank Members for their support and recognize that this is a particularly important piece of legislation that directly focuses on trying to, and ensuring that Norfolk Island has in place appropriate and adequate transferency and accountability mechanisms for Members of this Legislative Assembly

DEPUTY SPEAKER Thank you. Is there debate Honourable Members. hen I put the question that the Bill as amended be agreed to

QUESTION PUT  
AGREED

The ayes have it. The Bill as amended is agreed to

### **APPOINTMENT OF ADDITIONAL STANDING COMMITTEES**

Honourable Members, we resume debate on the question that the amendments be agreed to and Mr Nobbs, you have the call to resume

MR NOBBS Madam Deputy Speaker we've come quite a long way. It's been quite a journey with the motion which started of with a proposal to put in three Standing Committees. At the last meeting we got to the stage where there were a number of amendments being proposed and it was adjourned and I think that I was given an

amendment proposed by Ms Nicholas just before the meeting commenced which would fit into the current arrangements, and I will say to the listening audience that under chapter 4 of the Standing Orders of the Legislative Assembly there is established Standing Committees. There is a Committee of Privileges, there's a House Committee, there's a Business Committee and other standing committees may be appointed from time to time. It was proposed that the committee that impact the Bills and Subordinate Legislation Committee would sit after the Business Committee. Currently what's stated in the Standing Orders in relation to a committee is this. It says that the Business Committee is to consist of the President and two other Members shall be appointed as soon as practicable after the opening of a new House to arrange the order of business of the House and this same type of arrangement applies for the House Committee and the Committee of Privileges. What was proposed with my motion and it had been discussed fairly extensively with the Members at our informal meetings was that there would be specified certain roles etc of that particular committee. It appears that at this very late stage of the Legislative Assembly life that it would be impractical I believe to press on with the functions other than to allow for the establishment of the committee and that the new incoming Legislative Assembly would then work out what they precisely wanted to do with the committee. What its actual roles and functions were and therefore I've got no problem with Ms Nicholas's amendment which in fact does that, and I would just urge that the incoming Legislative Assembly may wish to look at the particular motion in its original form and may come up with something which they consider appropriate for their particular operations. I'm still in favour of the committee system Mr Speaker within the Legislative Assembly. I think it actually provides quite an extension of the current committee system within the Legislative Assembly. I think it provides some stability for non executive Members to come into the House knowing exactly what their roles are and in particular it also allows a group of people to deal in the case of this particular committee to deal with the community, which I don't believe at the present time that we have actually canvassed the community enough in relation to legislation, but this allow it to be taken from a particular executive Member and dealt with by a group of non executives. As for the other committees that were proposed I still believe that they are warranted and I hope that something like that would do. It's always a bit of a concern that executive Members or Minister think that having committees is not good because they are looking over your shoulder or they are trying to shaft you or whatever it may be, the roles are but I don't agree with that and I think the Hon R J Ellicott, was very clear in speaking to us yesterday in relation to the need to get consensus and therefore the more you can get involved in the situation without overloading, and that's what I feel that within certain areas there may be with a committee of the whole, that is all the Members, is really a bit of an overload, and whilst we do have informal meetings, I think most Members will agree that we may agree with something in an informal meeting, but put a microphone in front of us and things change a little, so I would suggest that this committee arrangement could assist. However I don't wish to speak further as I believe Ms Nicholas will be moving her amendment. Thank you

MS NICHOLAS Thank you Mr Speaker, Mr Nobbs has been most gracious. Mr Speaker I seek leave to withdraw my amendment to Mr Nobb's amendment

SPEAKER Is leave granted Honourable Members. Leave is granted thank you

MS NICHOLAS Thank you Mr Speaker, I seek to make the following amendment to Mr Nobbs' motion, in other words, replace my withdrawn amendment, by replacing all words after "standing order number 20:" at the end of line 1 of his amendment be deleted and the following substituted: "20A. An Impact of Bills and Subordinate Legislation Committee, to consider Bills and subordinate legislation referred to it by the House shall be appointed as soon as practicable after the opening of a new House. The 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.” I have circulated the amendment. I hope all Members have received a copy. My amendment eliminates the automatic consideration of a Bill or subordinate document by a standing committee. Rather it seeks to appoint the committee to consider legislation only as referred to it by the House. In speaking with Members there was perhaps a fair bit of support for the elimination of the confining or fine details of the motion as had already been put by Mr Nobbs and which my motion also took up. There was general feeling that a simple paragraph which followed the existing Standing Orders to allow the establishment of committees should be followed and that’s what I’ve sought to do in this amendment

MRS JACK

Mr Speaker, first of I think we already have provision for Mr Nobbs’ motion under clauses 155 and 159 of our Standing Orders. Admittedly 155 is a Bill that is presented to the House by the Administrator so we could ignore that one but 159 is something else again but it’s never been used and I ask why? has it been a lack of knowledge about the clauses existence or a lack of knowledge of the understanding of the workings of the Standing Orders, the workings and its contents or is it also Mr Speaker the need for better education of Members, especially new Members who enter this House at the start of each Legislative Assembly and perhaps that education could be held by seminars by yourself and or by Madam Clerk or her Deputy. Educating Members on the workings of protocol as laid out under Standing Orders. It is interesting to note that in the findings of the Select Committee which we are all referring to even though we didn’t really discuss it, recommendation no 5 even mentions that Members of all Legislative Assembly’s develop a better understanding of the respective roles and responsibilities of the Parliament and the executive and that appropriate educational programmes be provided for the purpose. Mr Speaker perhaps it is also a need for a better understanding of the Standing Orders themselves, and that they need review. I know it’s been mentioned some years ago, but we are entitled to do it under the Norfolk Island Act 1979. I believe clause 45 enables us to do that and perhaps if a clause such as 159 has never been used as I’m led to believe when I spoke with Madam clerk this morning, then if after 25 years it hasn’t been used then we should either get rid of it entirely or modify it for easier application and perhaps the amendment that’s been put forward by Ms Nicholas goes some way to making it an easier clause, Standing Order to adapt so I have no problem to agreeing to it. 25 years ago in this very room the then Speaker of the House of Representatives, Sir Billy Sneddon actually spoke on Standing Orders and he said that they were the most modern in any Parliament in the Commonwealth but I think 25 years on there is need for a review and so I hope that the next Legislative Assembly will take that on board and review Standing Orders but I will agree to the amendment to the amendment

MR BROWN

Mr Speaker the previous speaker has obviously not heard of the saying “if it’s not broken don’t fix it”. We have a set of Standing Orders which has stood us well. If Members has chosen not to read them and therefore not to use them, then that’s a matter for those Members. It’s obvious that Mrs Jack has at least opened at one page and that’s a wonderful thing. The particular clause to which she refers is indeed a clause which is available to the House at any time but the fact that it has not be regularly used may very much support what Mr Nobbs has been trying to achieve and what Ms Nicholas has tried to achieve together with him. I won’t need to take as long as some speakers have taken. I think the concept of what Mr Nobbs is attempting to do is a worthwhile concept. It think the way in which Ms Nicholas is seeking to amend it is a worthwhile thing also and I will be pleased to support the motion

MR GARDNER  
on that

Mr Speaker I endorse and support Mr Brown’s words

MR NOBBS

Mr Speaker I just wanted to say that we’ve spent some considerable effort I guess on this and I would like to pay tribute to the Clerk and Deputy Clerk and the Legislative Draftsman Peter MacSporran who assisted in this, thank you

MR GARDNER Mr Speaker just if I may, Mr Nobbs initially had proposed the establishment of two other committees and I would certainly hope that we could give consideration to the establishment in the same way that has been proposed by these amendments today because it has been recommended that we make better and more fulsome use of the committee system. We just need to decide and reach some consensus on just how we are going to do that but I think this is a good start and move in the right direction and thank Mr Nobbs for his commitment for ensuring that we move in this direction

SPEAKER Thank you. Honourable Members, the stage we are at is that we have an amendment to an amendment. It is Ms Nicholas amendment to Mr Nobbs amendment and so we'll vote on Ms Nicholas amendment to the amendment at this stage. The question to you is whether the amendment to the amendment be agreed to

QUESTION PUT  
AGREED

The ayes have it. The amendment to the amendment is agreed. Therefore we have an amended amendment. I now put the question to you that the amendment as amended to the motion be agreed to. It is really Ms Nicholas amendment now that continues to be voted on

QUESTION PUT  
AGREED

The ayes have it. I now put to you the final question that the original motion by that amendment be agreed to

QUESTION PUT  
AGREED

The ayes have it. Honourable Members, the original motion as amended is agreed

#### **ROAD TRAFFIC (AMENDMENT) BILL 2004**

Honourable Members, we resume debate on the question that the Bill be agreed to in principle and Mr Buffett, you have the call to resume

MR D BUFFETT Madam Deputy Speaker, we are resuming debate on the Road Traffic (Amendment) Bill 2004. It was a Bill that was formally introduced in May of this year and prior to the formal introduction of May 2004 there had been a public exposure draft to that piece of proposed legislation. I just as a way of reminder, mention to Honourable Members, that in an overview sense the legislation provides for these major safety measures in the community in Norfolk Island. It provides for seat belts, it provides for no riding on the back of trucks, it provides for no mobile phones when driving, it provides for helmets for motorcyclists, it provides that there needs to be safe behaviour within motor vehicles, there should not be driving under the influence and the alcohol limit set in that context is 0.08. there had been earlier proposals that it might be more stringent than that but the 0.08 is the present arrangement and that is proposed to be continued. The bill also provides for reinforcement for registration and inspection of vehicles, it proposes a road safety committee to review from time to time and monitor provisions of the legislation. Again as a reminder to Honourable Members, I mention that these measures are responses to requests that have come from a variety of sources. They have come from resolutions of the Legislative Assembly, for example the non carriage of children on the back of trucks or whilst standing on the back of motor vehicles, was a result of a motion of the House, the seat belt provision equally was extended in terms of that motion so that came all as a

resolution of the Legislative Assembly, there have been court records and hospital records that have given us indicators of the areas of difficulty, we have had recommendations from the coroner, but most importantly I think we've probably had the result from the DAA Working Group recommendations which have addressed particularly alcohol issues and they have made various recommendations which are reflected in the drafting of this particular legislation. It's a piece of proposed legislation which is not without its difficulties. I've endeavoured to explain that it is endeavoring to pick up safety issues in a range of ways. Some of them which some Members of the community obviously are not comfortable with and it's a regrettable process in that situation but I think if in fact we do have issues of safety that we as responsible elected Members have become aware of then we do have a responsibility to bring them forward and endeavour to provide safeguards in the widest spectrum of the community and that's what this particular piece of legislation aims to do.

**MR ROBINSON** Madam Deputy Speaker the most important thing I learned from the Norfolk Island Government's Risk Manager is that we have to "assess the risk as it pertains to Norfolk Island". Almost every part of this legislation is derived from other places. Places where people can and do travel at speeds greatly in excess of the speeds possible here on Norfolk Island. As a consequence we have legislation that is completely over the top. As it stands it would be suitable for any big city in either Australia or New Zealand including their superhighways. I'm not in favour of throwing out the whole bill. What I want to do is to moderate it to take into account the unique character of Norfolk Island. In the main our tourists come here to escape the rigid, overbearing, over legislated places they come from. Considering that the Petition that was put forward earlier today has been in the public domain for only four and a bit days I think this body is bound to take those opinions into account. If you accept my proposed amendments when I make them and they don't work then the Legislative Assembly of the day can always bring in the draconian over the top alternatives that you are proposing here. The ability to do so will not go away. I will leave it at that now thank you

**MRS JACK** Madam Deputy Speaker, I would just like to know what the standards are if we are to consider Mr Robinson's proposals here. He said along the lines of if they don't work then we can bring something in. what is the standard? How do they qualify if they don't work? Is it a bad accident or a death?

**MR ROBINSON** That's up to the House to decide, not for me to tell you how to do it. The community will tell you how to do it if it doesn't work. It's just as the community have told you by way of 325 people who said, now those people didn't agree with everything on that petition but by far and away the majority agreed with all three and I think that's what we are here for. The take account of what the community's wishes are. Not to go in and do it off our own bat. Traditionally Norfolk Island's had a reputation for being laid back, stress free and relaxed. Now you want to bring in legislation that's designed for big cities. I just wonder if all the words about protecting our culture and traditions yesterday was just so much polly speak

**MRS JACK** Madam Deputy Speaker, they weren't polly speak on my part but I for one couldn't live with the legislation in front of me waiting for a standard, waiting for a decision that could possibly involve somebody's death through some of the proposals of Mr Robinson's. It's a hard task. That's why we were elected here and I for one am prepared to take that hard stand. Thank you

**MR D BUFFETT** Madam Deputy Speaker, without a doubt this matter has its difficulties and I am not unmindful of those who might be of another view in terms of this. But could I just point this out in terms of we as legislators trying to respond to appropriate examinations that have been done in the Norfolk Island

community and various responses that we've received in that process. The DAA Working Group for example conducted some significant surveys throughout the Norfolk Island community and just to use one example within the survey process which relates to random breath testing in this particular instance. There was significant survey with something like 500/600 people who responded in that vicinity. Now not all of them were of the one mind and that's how the community is composed. There are varying views and they are to be recognized and respected but when issues come along we need to address them but on this particular question, the random breath testing issue for example, it was found that something like 20% of those surveyed disagreed absolutely with introduction of random breath testing and something like 9.3% disagreed mildly but if we add those together we get something like 28.9%, so 30% in round figures. So we did have in the survey in that situation, some 30% who disagreed absolutely or disagreed mildly with that but equally in that very same survey there was some 38.9% who absolutely agreed that this was an appropriate measure for Norfolk Island and some agreed only mildly numbering 14% and the total in that particular situation added to something like 52.9 or 53% so yes, there are varying views. I accept that and one can accept that people may petition this Legislative Assembly and I respect that view but also I need to refer to other surveys that have been undertaken in the community by respectable groups and bodies and yes, they too show that there are varying views, but in that particular instance there was a significant body of views that we should address the safety issue and it is when these safety issues that need to be addressed I think we although difficulty, need to endeavour to tackle them and as I say again, this bill is one that is endeavoring to do that with the greatest responsibility that it is able to muster and difficult although the circumstances may be. I thought that example may be useful to our considerations Madam Deputy Speaker

MR BROWN

Madam Deputy Speaker, this is not a popular bill. And it's a shame that it was introduced into the House in the way in which it was introduced. That is a very detailed bill was prepared if my recollection was correct and distributed to Members without Members first having participated in discussion about what I believe should have been a very important question and that is, do we take a view that we give to a group such as the DAA Working Group, this is not intended to be a criticism of that group, but do we say well group you do away and you legislate for us and we'll just pass whatever you tell us. I don't think that's the best way to do things. Similarly I don't think a bill should have been introduced that tried to do as many different things as this bill has tried to do. If we had picked out the things that were not controversial and attended to those, and then perhaps dealt one at a time with the things that were controversial, we might have found the going a lot easier. Quite a bit of what Mr Robinson says is commonsense. I'm not saying any of it is not commonsense but quite a bit of it most certainly is. I've had trouble for some time with the advise that we've been given in relation to the availability of motor vehicle insurance. My own experience has been different to the advise that we have been given. We've been basically told that unless this bill is passed, we can forget about the possibility of people being able to obtain third party personal injury motor vehicle insurance but at a recent meeting Members were apparently told it's horses for courses and we should be ensuring that our legislation suits the needs of the motor vehicle using public in Norfolk Island rather than simply mirroring legislation of some mainland jurisdiction. I would be more comfortable if we split this bill up and if we deal with the things which are not controversial and then deal as individual bills with the matters which are controversial, one that Mr Robinson has

addressed is riding on the back of trucks. Members might recall that I tried to convince the House to take action about that quite some time ago. The executive of the day wasn't all that enthusiastic. I don't even recall who it was now but nothing happened. It may be that had something been done at the time that aspect wouldn't have been required now. In my view it's not appropriate for us to finalise this today but it is appropriate between now and our next sitting for that bill to be split up into manageable elements with the intention of finalizing as much of it as may be possible in the life of this Legislative Assembly and then if there are controversial elements that we cannot obtain close to a consensus on, then maybe that should say to us, perhaps it's better not to deal with them just yet, and leave that for the next Legislative Assembly but encourage them to tackle it at a pretty early date, thank you

MR NOBBS

Madam Deputy Speaker Mr Brown is right. This bill has been backwards and forwards to us. It was brought out like a fait accompli then changed .08 to .05. the situation really is and the Minister has now quoted from the DAA Working Group surveys some particular figures and I haven't got them here so I take them as read Minister, I assume you wouldn't be fudging the figures. But what you really missed the point on and I mentioned it earlier is that the DAA Working Group, and they don't claim to be the be all and end all, they are just a group of people put together from various particular areas of the Administration and private life and so on, looking at drugs and alcohol problems on the island. What I spoke of previously was that alcohol is a problem and so are drugs and the survey itself recognizes that big time and it was great to see because I believe we may have been misled in the past that the community didn't recognize that we do have these sort of problems but they recognize them big time. The DAA Working Group and the lady who actually conducted the survey and was advising on it came up with certain strategies. It's not an issue of, you are not going to solve any drinking or alcohol or drug problems by having some policeman running around the street with a breathalyzer. It's a major operation which we have to tackle and there's far more in it than this piece of legislation and I've said before what we need is a total package to deal with it and not just this one off hits and think oh we've done wonderfully, we are going to put police who may or may not use the breathalyzer as they may or may not use the speed gun which I've spoken to them about as well but the situation really is that there's more than one particular activity. I'm in a dilemma actually in relation to this because I don't want to throw the whole act out but I've asked and I've pleaded for a total package to be developed and brought in and we've done bits here and bits there and I heard I was attacked last night because you blokes in relation to encouraging people to participate in the consumption of low alcohol beer that we've put up the price of heavy beer in the Bond astronomically. I mean, if it's true, I'm not too sure and the Minister may be able to help me because I haven't had the chance this morning to check with the Bond but if that has happened I would have thought that would be the most stupid act I've ever heard in my life because it really just puts people right off what you are trying to achieve from the kickoff. I hope that hasn't been the role because that was never the intention of trying to encourage people to take on low alcohol drinks. Anyhow, as I said I really don't wish to vote against the bill full stop and I would prefer it to be dealt with in the way Mr Brown said, and it's fairly strange that we are agreeing on something, but it might be getting towards the end of the term of something...

MR BROWN

It's Goodwill

MR NOBBS

Goodwill? That's it Madam Deputy Speaker, the 25 years that's seeing us change and the good words of the Hon RJ Ellicott yesterday so I prefer us to take out the parts that are not really necessary and they are the registration arrangements. The registration labels have been sitting there for three years now but we haven't got them in. they are the areas that we need. We need to clarify the registration of

vehicles and I accept that from the Police, there's no worries at all. The actual registration, the establishment of a registrar and those sort of things are fine. Noise is another one that's been a problem within the community and I can quite see that but I would prefer it to be dealt with under two separate arrangements, but I would really encourage the incoming Legislative Assembly to look very closely at a total package in relation to drug and alcohol problems on the island here and come up with something that's really fair dinkam. We've got little bits and pieces that's been brought in but we haven't got the total package as yet and we need it urgently, thank you Madam Deputy Speaker

MR GARDNER

Madam Deputy Speaker, it must be the season for consensus because I'm leaning to agreement with the words that both Mr Nobbs and Mr Brown have expressed in the House today. That doesn't mean that I'm shying away from my support for the introduction of seat belts; shying away from my support for I think the words that maybe Ron used, looking at how we can minimize the impact of alcohol. There may be options that don't include having to have a breathalyzer but in the absence of something else I'm not shying away from the support of that either. I'm not shying away from the support of insuring that people don't travel in or on vehicles that they are not supposed to be traveling on or in because I simply don't believe that I want to sit here and face another tragedy in this community. I really don't I don't think I could stomach it. The development of this legislation as we are all aware had a bit of a rocky road. I think at one time I had carriage of it and that was at one time when there was an attempt to link them to compulsory third party and I have before me and I'm not going to complicate the issue today, my proposed detail stage amendments that would insert compulsory third party into this piece of legislation and further complicate the consideration of it by Members. We attempted in the early days to ensure that the community were properly consulted and I think we got off to a positive start with that. We had a radio session and we had police talking to the community and we had the doctors input and that's been repeated in more recent months with the Minister David Buffett who currently has carriage of this matter, to try and provide some education, some basis as to why these things were looked at and why these things were required and sure enough there is continuing angst against these provisions within the community. Now I don't know whether they are entirely based on people's concerns about the culture and traditions. They may well be. I think maybe some of the angst is directed towards this legislation is the problems that I think we too often experience that we too often don't voice our concern about them often enough is the way vehicles are used on the island and that day after day we see people using vehicles negligently and dangerously and we question why those people are still doing that. Why haven't they been pinned. Why haven't they attended downstairs. The questions that always arise about how we are going to police these things and how we are going to enforce them. The trucks that we follow along the road and I was following one the other day. No indicators, no stop lights, nothing but it was carrying soil along the road and it sort of started to turn over in my mind that it's all well and good to look at putting in what I believe is appropriate legislation but we are failing ourselves if we aren't prepared to look after what we have in place today. Again that's a common thread that's shared with everything that we do around this table. Our eternal desire to want more power and this isn't intended to be a criticism of anybody or anything but certainly our preferred position to make sure we deal with what we've got today as best and as professionally as we can before we move on in another direction. It may have been Madam Deputy Speaker we've jumped ahead of ourselves abit and I guess this is why I'm tending to support what Mr Brown is on about for the same reason that I don't want to complicate things by moving a detail stage amendment that is going to introduce a fairly significant requirement on motor vehicle owners on Norfolk Island today to complicate this issue even further. I tend to agree that maybe we should dismantle the legislation. There are I believe, those three significant issues and I've already expressed my support for them. I think they are important issues that we need to deal with. We need to have appropriate legislative provision for but there is so much more as Mr Nobbs alluded to within the body of this legislation that needs dealing with now and that's the registration aspect. I don't think there is any argument other than those who own the boom boxes from the noise provisions and

those sorts of things. Those are timely. They do disturb a lot of people. It does cause them a lot of angst and grief and maybe those legislative provisions are ones that we should be moving on into but at the same time continuing with the programme of education and trying to get people to understand and appreciate the difficulties, and at the same time, us a Members being educated by the community as to the wants, the desires, the feelings and the aspirations of the people in the community in relation to what are fairly significant matters but important matters that we just can't turn a blind eye to. I had the opportunity to briefly speak to the Minister before we came upstairs and I think what I'm saying now is in line with what I was saying to him then, that I too like Mr Nobbs and I'm sure Mr Robinson and Mr Brown and other Members around this table, don't want to see that because there is a hiccup, or a problem with some of the provisions, to see the whole lot lost and in my view, reviewing the legislation today, it is not just a simple matter of trying to preserve all the good aspects of this legislation that are non controversial but going through the detail stage and just pruning a few bits out. That's when you really start to get into some trouble and then you find that sections aren't talking to each other and things like that. I would have been really chuffed I think if this Legislative Assembly could have finalised so many of these matters. I would certainly be attempting to have a s wide a debate as we can on the compulsory third party proposal as part of what I had original proposed as a detail stage amendment and I note that those are dated the 23<sup>rd</sup> June so they've been around for a little while now, but something that I had alluded to in earlier debate, they are important matters and if it means that we've got significantly controversial matters that require further discussion well let's do that, and let's if we need to, establish three pieces of separate amending legislation to the principle Act that I think that we can pass at the next sitting for future discussion whether its by this Legislative Assembly or not it doesn't matter, so long as it remains on the table and is under discussion, at the end of the day we are going to come to an arrangement that I am sure is going to serve this community well into the future and will take account of people's concerns and considerations

MRS JACK Madam Deputy Speaker, I can appreciate and understand what those gentlemen have said. I really can. But it must be a gender based thing. It really must because from my point of view and talking to the people that I have, to start going down this track is to disband all that has gone before and I just couldn't agree to any of it. I'm sorry, I thought with all the work that we had done if we were going to go down this track and breaking it up, these sort of things should have come out before and I just feel that the whole work will go down the gurgler if we start following this so I won't be agreeing to them. I understand them and I appreciate what the gentlemen have said but I couldn't agree to breaking it up and dealing with it

MR BROWN Madam Deputy Speaker, there are some things that could be done right now. I would expect that something like 95% or more of the cars that this bill would seek to have fitted with seat belts are already fitted with them. It takes a matter of seconds to put a seatbelt on. When we go to the mainland we manage to do it quite easily there. I haven't heard of too many local people being booked on the mainland for failure to wear seatbelts. It's not such a terrible habit to get into here. We can avoid the need for legislation by doing a few things to help ourselves. Among the worst offenders for using mobile telephones while driving motor vehicles are the Administration staff. Very much among the worst offenders. That could be solved by the CEO saying hey fellas, we need to lead by example here, don't use your mobile phone while you are driving. We would try enforcing the existing legislation. If any of you have don't done it for a while, go and stand near Channers Corner and have a look at the percentage of cars that actually stop at the stop sign,. I deliberately word it that way Madam Deputy Speaker as I suspect most of us go through it. Duck up to the Hospital corner and see how many stop at the stop sign there. I recently asked Members to support the concept of putting some road markings at Channers Corner sin order to what I believe was make that corner safer by delineating where Taylors Road is, by avoiding someone coming up Taylors Road from Kingston intending to turn right and finding themselves right in the path of traffic intending to turn down Taylors Road and it

happens regularly, but we were advised that there is no need for any traffic marking on that corner and we were told that more attention would be paid to enforcing the requirement to stop at the stop sign. Well can we at least buy a cardboard cut out of a policeman and police car. Can we at least stick that on the corner because that would be a lot more use than what appears to be happening at the moment. I realize the police are busy and I'm not intending to be critical of the police when I say that but if their resources do not allow them to enforce the law at the two stop signs I've just mentioned, then what is the point of passing a whole lot more law. It might be a helluva waste of time. Maybe we are better saying CEO get your staff to comply with the law and get them to wear seat belts. We might be better encouraging everyone to do the same thing and try to reach a stage where we have a community that actually doesn't need a lot of legislation. That's another way of doing that. Like Mr Gardner I don't intend at the end of the day to vote against something which is necessary. We've had too many injuries on the island, for example, from people falling off the back of trucks. generally assisted of them with a belly full of beer and a mouth full of marijuana. Nevertheless the community has then incurred a large cost. We can't ignore that. We can't allow someone to say it's my right to fall off the back of a truck because it's the community who ends up paying the bill. But the community can do a lot to avoid the need for legislation. I think some of the comment that's been made is very worthwhile comments. I think other comments perhaps if reflected upon in the cold hard light of day might have been better not made. I don't think it's appropriate to say we've got a traditional right to drive around drunk. That's not part of the tradition of Norfolk Island. Having said all of that I believe the appropriate thing to do today is to adjourn this and get it into a form that Members will support on the next occasion and if it requires some form of education programme beyond that at the same time as we continue to work through the others sections, well there's nothing wrong with that. That would be a good thing. Thank you

MR ROBINSON

Madam Deputy Speaker as I said before, I'm not in favour of throwing the whole bill out and when the petition was passed around we have a list now of some 13 suggested amendments to the Road Traffic Act for trial. And these are probably the 13 most popular suggestions that people came and gave us, so I don't think people are being irresponsible at all and I really think Mr Brown's motion to put it in acceptable lots would go a lot further towards getting things accomplished than us sitting here basically scrapping over what is minor in the long run. The petition doesn't say no breath testing gear at all. They only say no random breath testing. There's nothing wrong with a policeman pulling up someone who's wobbling all over the road or maybe driving irresponsibly, pulling them over and putting a bag in their mouth. I don't think anyone of those 325 people would object to that sort of thing so I would look forward to the Minister taking Mr Brown's advise and pulling it apart and let's see how we can get it together more acceptably, thank you

MR D BUFFETT

Madam Deputy Speaker, a number of suggestions have been made this afternoon. Dismantling the legislation for example, I don't think it would be unfair of me to point out that we've done that very thing before in this particular piece of legislation. It became too hard before so in terms of the areas where it was thought difficult to achieve we dismantled it and we thought we would tackle it another way and bring forward those things we thought we could handle. Well we've brought those things forward we thought we could handle and here we are again. And now we are saying we should dismantle it again. I'm not too sure if we are really serious about addressing these difficult areas, the real public safety issues that are involved, that we can continue to dismantle the legislation. We have from time to time put things in the too hard basket. I'm wondering if this mightn't be thought to be one of them as well, and I don't think that we can put these things in the too hard basket. I think we do need to have concern for the public issues that I keep being repetitive about and I'm not sure that I apologise for keeping repetitive about the public safety issues. I understand what has been said about some of those things and I do wish to try and follow a course that will a) deliver this public safety issues to the Norfolk Island community. I certainly would like to get on with the task of trying to settle one way or



