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JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL
AND EXTERNAL TERRITORIES

Reference: Norfolk Island electoral matters

THURSDAY, 22 MARCH 2001

NORFOLK ISLAND

BY AUTHORITY OF THE PARLIAMENT

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JOINT COMMITTEE ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES

Thursday, 22 March 2001

Members: Senator Lightfoot (*Chair*), Senators Crossin, Greig, Lundy, Watson and West and Mr Cameron, Ms Ellis, Mr Nehl, Mr Neville, Mr Snowdon and Mr Somlyay

Senators and members in attendance: Senators Lightfoot and West and Ms Ellis

Terms of reference for the inquiry:

To inquire into and report on:

The consistency of the laws relating to eligibility to vote and candidature for the Legislative Assembly of the Territory of Norfolk Island with other Australian jurisdictions, in particular:

- a. whether Australian citizenship should be a requirement for eligibility to vote for, or be elected to, the Legislative Assembly;
- b. the time period before which an Australian citizen resident in the Territory can enrol to vote for the local legislature.

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Committee met at 9.01 a.m.**BUFFET, Mr David Ernest, MLA, Minister for Immigration and Community, Norfolk Island Government****COOK, The Honourable Adrian George Hingston, (Private capacity)****NOBBS, Mr Ronald, MLA, Chief Minister, Norfolk Island Government**

CHAIRMAN—I declare open this first public hearing of the Joint Standing Committee on the National Capital and External Territories inquiry into electoral matters on Norfolk Island. On 1 November 2000 the committee received a reference from the minister to inquire into and report on electoral matters on Norfolk Island. The purpose of this inquiry is to examine the consistency of laws relating to eligibility to vote and candidature for the Legislative Assembly of the Territory of Norfolk Island with other Australian jurisdictions.

In particular the committee will focus on (a) whether Australian citizenship will be a requirement for eligibility to vote for or be elected to the Legislative Assembly and (b) the time period before which an Australian citizen resident in the territory can enrol to vote for the local legislature. The committee welcomes the opportunity to visit Norfolk Island and to hear from members of the Norfolk Island community on the issues which are the subject of the inquiry. Further evidence will be taken in Canberra on 2 April. At the conclusion of this inquiry the committee will table its findings, conclusions and recommendations in the parliament in a report which will be publicly available. The committee will report by the end of June 2001.

The committee normally authorises submissions for publication and they are placed on the committee's web site. To date, the committee has received nine submissions from interested parties. If you would like to comment upon any of the issues or have any information you think is relevant to the inquiry the committee would welcome your contribution. If you would like to make a submission commenting upon electoral matters in Norfolk Island, please ask any of our committee or staff present today for assistance. The committee can hear in camera or can treat submissions as confidential. Is it the wish of the committee that submissions 8 to 10 be accepted as evidence to the inquiry and authorised for publication? There being no objection, it is so ordered. I now turn to the proceedings at hand. At the conclusion of this inquiry the committee will table its findings, conclusions and recommendations.

I welcome witnesses from the government of Norfolk Island. Although the committee does not require witnesses to give evidence under oath, you should understand that these hearings are legal proceedings of parliament and warrant the same respect as proceedings of the parliament itself. Giving false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. Are there any corrections or amendments you would like to make to your submissions?

Mr R. Nobbs—No, not at this stage.

Mr Buffett—Mr Chairman and members, there is an additional component but I wonder if that could be woven in when we make our oral presentations.

CHAIRMAN—If you were to read it in, Mr Buffett, that would be quite acceptable.

Mr Buffett—Thank you.

CHAIRMAN—Mr Cook, you have nothing to add?

Mr Cook—No, I have nothing to add.

CHAIRMAN—The committee prefers that evidence be taken in public but if you wish to give confidential evidence to the committee, you may request that the hearings be held in camera and the committee will consider your particular request. Before we ask you some questions, do you wish to make an opening statement, Chief Minister?

Mr R. Nobbs—Thank you. Yes, I do. Mr Buffett will be speaking as well and I think Mr Cook will have something to say. I would like to welcome the committee to Norfolk Island and I hope you have a pleasant stay. I would like to commence with a quick excursion back in time, if I may, Mr Chairman and hopefully you will see the influence of earlier times reflected in what you see today. Intertwined in the current fabric of Norfolk Island remains those important issues from past eras. I think that is a really important point you should take away with you.

It can be said that the history of European influence for current Australian and Norfolk Island societies commenced about the same time and subsequently they have progressed down significantly different paths. A handful of convicts landed in Australia in 1788 and a handful of sailors regained their dignity by pinching a boat in 1789. Both incidents, linked as they were, are accredited to the fall of the British government. The handful of sailors progressed and finally settled on Pitcairn Island where they and their descendants lived until 1856. During that time three outsiders joined and were assimilated successfully into the community. There were others who arrived but were not accepted and departed.

The Pitcairn community survived initially for some 20 years without contact from the outside world and, later, with minimal contact and support from Great Britain. The community developed its own laws, tended its sick, educated its youth, provided its own government and also, ladies, it provided for a vote for women. It dealt with immigration issues and, in other words, survived virtually alone. The population of Pitcairn increased to the extent that the island became inadequate and a move was organised by representatives of the community in consultation with the British government and, at the behest of Queen Victoria, to a vacant piece of crown land to a place called Norfolk Island. The move from Pitcairn was made and the community arrived on an island given to the Pitcairn people by Queen Victoria. That, ladies and gentlemen, is a fact. The terror of distance, selective memories, ego trips and those issues which unfortunately remain to this day as part of the political scene have tended to override the fact that Norfolk Island was given to the Pitcairn people.

The period 1856 to 1896 saw the community provide governments, as it had on Pitcairn. Immigration continued and was successfully dealt with by the community. A significant community from the Melanesian Mission comprising over 200 students and staff was permitted by the community to establish itself on the island. During this period the Norfolk Island community continued to survive, like Pitcairn, virtually alone.

The governor of New South Wales was the person representing the British Crown from 1856 onwards. It appears, apart from his role at the arrival of the Pitcairners, when there was an obvious misinterpretation of the British government's wishes and certain land was retained, that the New South Wales government had little to do with Norfolk Island until towards the end of the century.

In 1895 things began to change. The community which was established 105 years ago first encountered interference from another political organisation. New South Wales, then a colony, decided that Norfolk Island would come under its influence and claims of being its saviour, et cetera, are really not borne out by facts. From 1896 onwards the descendants of the Pitcairn community came under the influence of Australia in what was really a bloodless coup, although it is argued by our side that there was and continues to be, a lot of blood, sweat and tears and money expended by this community in attempting to rectify what has resulted.

The period from 1896 onwards to 1914 saw a very significant change in the community. Government arrangements were changed, the laws were changed, people were forced from their homes and forced to relocate. The first Norfolk Island volunteers for a war saw four young men volunteering and being accepted into the 6th Imperial Bushmen. They sailed for South Africa in 1901. One returned with the rank of captain and he was also mentioned in dispatches. I mention that because it is a very significant point in our history, I believe.

During this period history suggests that the island was not travelling very well. 1914 was significant for the island as it was made a territory and, of course, World War I commenced.

It appears that Norfolk was made a territory without real consultation with the community. *Hansard* extracts suggest there was. We are getting close to living memory and my family records suggest, bearing in mind that my grandfather was on the then executive council, that they were told. With all due respect I think you will agree that *Hansard* is not the most reliable record in such cases.

1914 was also significant in that World War I commenced. On Norfolk it was really a significant event: 78 volunteered, some 10 per cent of the population, of which two were females and the first of 13 deaths recorded at Gallipoli. The period between the wars saw an administrator appointed by the Commonwealth and what were described as fairly horrendous controls. Even so, Norfolk Island retained its own laws, it retained its own immigration status and it retained its own electoral mandate in that the people were elected. We had an advisory council at the time, initially elders and then, in 1936, it was changed from an advisory council. These people advised the administrator on the running of the island.

World War II saw a huge contingent of Norfolk Islanders joining Australia and New Zealand forces. I think there was something like 250 who joined up overall. An airstrip was constructed. There was apparently no consultation at the time, although in the circumstances I guess this can be overlooked. The island was largely garrisoned by New Zealanders and the island was virtually laid bare as farms ran down.

Immediately after the post war period things were fairly tight on the island, but in the 1950s we saw an increase in farming activity, whaling and the island then progressed into the 1960s

and what was the start of a tourist era. In 1979 we accepted a form of self-government and this has been progressed in subsequent years.

My point at this stage, Mr Chairman, is that the Australian and Norfolk Island societies commenced about the same time but their evolution has been completely different. We are a distinct and different community to those in Australia. Within the current fabric of this island the influence of our past still plays a major role. We believe that the difference should be recognised and respected. That is all I have to say at this stage, Mr Chairman.

Mr Buffett—Thank you, Mr Chairman and members. The Chief Minister's historical sequence obviously demonstrated a distinct and separate thread, a separate thread that leads us to Norfolk Island. It is important to ask you to grasp this distinct historical and genealogical thread that exists here. May I just again emphasise that it developed before the Commonwealth of Australia entered the Norfolk Island equation. Indeed, it predates the Commonwealth of Australia itself. You are this year, of course, celebrating the Centenary of Federation. This different thread which is a separate body of laws, as has been explained, a distinct heritage and a different language, our own electoral laws—which is the subject of this particular inquiry, which interestingly the chief minister has already pointed out, included females suffrage—but may I just emphasise that it was female suffrage in the Norfolk Island and Pitcairn context, some 40 years before any of the then Australian colonies.

When the Commonwealth did commence, it is interesting to note that that separate thread continued, so it was there before and, when the Commonwealth entered the lists, it continued that separate thread by continuing the separate body of laws for Norfolk Island; it continued separate electoral laws; it continued a separate thread including those by which the former colonies had ceded authority to the Commonwealth—for example, customs and immigration. So that thread which has been described is not something that is mythical. It has reality in its arrangement, both before the Commonwealth and in the present arrangements existing with the Commonwealth.

The electoral matter which federal Minister Macdonald has posed as a problem it needs to be pointed out is not seen as a problem here in Norfolk Island. It is not a local issue of any concern. Indeed, the Norfolk Island community has rejected Minister Macdonald's solution to the imaginary problem three times in 10 years and have done it at referendum. It is only 19 months since the last previous extensive inquiry was made into the matter. It is less than a year since the Australian legislation, to remedy the so-called problem, was rejected by the Australian Senate.

I would just like to point out that this and similar issues are really seen here in Norfolk Island as impediments to and avoidance of the granting of full internal self-government for us here in Norfolk Island. I mentioned that the electoral issue is not seen as a problem here in Norfolk Island. I think we can also say with respect that it is also not seen as an Australian community concern. There appears to be no Australian community mandate to a government to force its provisions upon the Norfolk Island community. This strike against Norfolk Island's own electoral criteria seems to serve no good purpose to the Australian community. It really therefore can only be seen as cosmetic value to the Commonwealth.

But having said that, on the other hand we need to point out that there is a full catalogue of damage that such means, if forced upon us, would bring to the Norfolk Island community—unwanted and unnecessary damage. Let me list some of them, if I may. The first, of course, is departure from the commitment in the Norfolk Island Act of 1979. I will just make one more quotation from it. It says, ‘Whereas the parliament’—this is the Commonwealth parliament—‘recognises the special relationship of the said descendants’—and we are talking about Pitcairn descendants in that context—‘and their desire to preserve their traditions and their culture’. In other words the act of—

Senator WEST—Can you advise what section or what clause in the act that is, please?

Mr Buffett—Yes, this is in the preamble to the Norfolk Island Act of 1979. I can provide a copy of that piece of legislation if that would be helpful. That act of 1979, a Commonwealth piece of legislation, of course, had the fundamental recognition of a dynamic cultural approach to Norfolk Island’s population and the laws which provided for their wellbeing. The Australian government electoral proposal immediately disenfranchise and discriminates against a section of that community which was recognised in that piece of legislation.

The proposal seeks to remove a responsibility—and this is another difficulty that we see—in the Norfolk Island government’s hands under a Norfolk Island piece of legislation, and that is the Legislative Assembly Act, and to transfer that responsibility to a legislative arrangement that is remote from Norfolk Island; that is, to a Commonwealth piece of legislation that is obviously Canberra based. This, too, is at odds with the Norfolk Island Act. The thrust of the Norfolk Island Act is to devolve authority to Norfolk Island, not gather it unto the Commonwealth. They are just a couple of examples of departures from commitments in the Norfolk Island Act of 1979. They are also examples of unnecessary damage that would be done to the Norfolk Island community.

What other damage? The impact on human rights. The Australian Human Rights Commissioner has pointed out in a submission to you the prospective non-observance of human rights principles in disenfranchising some components of the Norfolk Island community who presently have electoral participation or who might look forward to it in the context of their living in the community. International covenants, for example, on civil and political rights, also raise a challenge to the proposed electoral bill.

The New South Wales Law Society has signalled—and there is a letter attached to our submission, Mr Chairman and members—that the bill does not appear to accord with the United Nations charter on international covenants and political rights; it discriminates against minorities. Additionally, Norfolk Island as a non-self-governing territory—that is in terms of the United Nations charter—does have a right to proceed to self-government.

The bill or, really, the proposal that you are looking at diminishes and does not encourage that particular course. I have tried to give you a couple of examples which demonstrate that.

It has been the consistent approach over the past years, a number of decades, on the part of the Commonwealth not to impose the electoral constraints as proposed by Minister Macdonald. The Norfolk Island government, representing the Norfolk Island community, offers

encouragement to your committee, Mr Chairman, that you find this consistency of attitude meets the needs and expectations of the community here.

May I seek your leave to add to the submission that we have provided to you. At page 31 where there are conclusions, the conclusions move 1 to 3. We would like to add 4(a) and 4(b) 'That the committee should in all the circumstances reach a conclusion that any changes to the electoral system in Norfolk Island as contemplated by the terms of reference would be in breach of or inconsistent with the international covenant on civil and political rights enforced for Australia; (b) in all the circumstances and in view of the submissions received by the committee including those from the Society of the Pitcairn Descendants, there is no justification for considering or imposing any change.'

Mr Chairman and members, we are available to respond to any questions or clarify any points that have been made in the submission to you.

Mr Cook—May it please members of the committee, I am grateful for the opportunity to be able to speak essentially in a private capacity. I am a member of the Legislative Assembly, having been elected in February last year. Last year I held the office of Minister for Immigration and Community Services. I wish to speak in a sense in a private capacity. I want to make it abundantly clear to the committee that I do not in any way depart from the submissions which have already been made both by the chief minister and by the Honourable. Sir David Buffett.

I only wish to come to the committee today to express some points which I ask the committee to consider. I do so in the capacity of not only being an Australian citizen but also being an extremely proud resident of Norfolk Island. Most people of course have that qualification of being an Australian citizen although a number of persons on Norfolk Island, now totalling some 59, do not hold Australian citizenship or have passports which are not Australian passports. That in proportion to the total number of people in the electorate is approximately about five per cent, so it is not an insignificant number by any means at all, in the considerations that I want to put forward to this committee.

I want to immediately refer to what I consider to be a most important aspect of life here on Norfolk Island. I have been coming to Norfolk Island and have lived here for a total of some 18 years. As I indicated, I was entrusted by this community to engage in the process of assisting in the government of the community to a high level of participation. Although I am married to a Pitcairn descendant, I do not consider myself to be, as it were, fully assimilated into the community. I say so, not because I am not aware of all the aspects of the community which require to be taken into account in determining whether one is assimilated, but I am learning still, after 18 years, the most extraordinary aspects of life on Norfolk Island and continuously undergoing that process.

I wish to stress that to feel that one is truly assimilated into Norfolk Island takes a very considerable number of years of dedicated commitment to life in the community of Norfolk Island as the life that one really wants to lead. Doors are open to one to come to understand the attitudes, ideas, beliefs and the driving aspirations of the true Norfolk Island people only by long association with them and when they come to trust you as somebody who is committed to being a real member of their community.

I would like to say immediately that it is one of the paramount philosophies and a true tradition of the Norfolk Island people that they welcome and take in strangers. There may have been reasons why, in the earlier days of pure survival of their community, that they accepted strangers into their community to maintain the health and vigour of the community, but that process has continued throughout the whole history of the Pitcairn Island people and continues right through to this very day.

The hymn which is sung by Pitcairn Islanders on every solemn occasion is a total reaffirmation constantly to not only those who have been born on this island or are truly Pitcairn descendants but those who have been given the privilege of coming to live in the community. It is 'I was a stranger and ye took me in; naked and ye clothed me.' Fortunately when I came here I was not naked and I did not have to be clothed but I was certainly taken in, in a major way which I consider—and I have already stated and I do not want to overstate it—to be an absolute privilege and honour in being able to be part of this community and to be entrusted with the role that I have had so far to play within the community.

As I said earlier, I still regard that as an ongoing process of learning and becoming assimilated. That tradition has been very strongly there for strangers coming into the community to be assimilated, to learn the ideas, aspirations, culture and the traditions of the community and to go on from there, as happens in so many cases, to play a major part in the community's life. I refer to this aspect of tradition and have chosen to do so purely from my perspective as a stranger who has been taken in. If one examines the very material that the Honourable David Buffett referred this committee to—that is, the preamble of the Norfolk Island Act—one finds that the Commonwealth has entered into a solemn pact with Norfolk Island as a preamble to that act. That important preamble must necessarily be taken in the light that the Commonwealth recognises it is desirable and it is the wish of the people of Norfolk Island to maintain and protect their traditions and their culture.

Traditions, of course, are customs which come almost virtually to have the force of law by reason of long adherence and being taken into the philosophy of a community.

I have already referred to—and I do not wish to overstate the importance of this—the role the community has undertaken right from its very beginning: taking in of strangers, the welcoming of strangers, the receiving of strangers. It appears that when one examines the matter, that has been an extremely important part of the Norfolk Island way of life and community thinking.

In that regard the presence of strangers who still remain strangers—and I will consider myself to be so probably until I die because I do not have that inherent background of family and connections all the way back, as so many people do on this island. They count so very proudly their connection to their roots and the origins of this unique, very special community which was founded on Pitcairn Island, which survived through all the adversities and which maintained its independence.

Queen Victoria, in her grant of the island to the island people in 1856, did a great deal to protect the island from invasion by land speculators and people of that kind. She made it clear that only those who were given permission by the governor could come to the island. That meant there had to be a fairly selective approach in allowing persons to come to the island. The

islanders themselves were more than willing to receive into their ranks and take into their bosom those people who did come from so many diverse backgrounds.

Particularly this was the case with sailors who came from ships visiting the island. The islanders readily took those persons into their company. They have remained and have become, historically and otherwise, a most useful part of our community. Their descendants are obviously able to proudly point back to the way in which they were taken into the community by the community. They can claim this proud association over a long time.

I wish to put to this committee a most important aspect: there is a very important tradition of taking strangers into the community; of giving those strangers a standing and status in the community; of readily accepting them as members of the community and almost as a covenant of the community's idea as to how it should behave and conduct itself.

Further in the preamble to the Norfolk Island Act, one finds that the Commonwealth of Australia has guaranteed that Norfolk Island should have a representative Legislative Assembly. A representative Legislative Assembly means one which represents the whole of the community—that is, all the interests and all the people. To be a representative community there must be opportunities for people throughout the whole community, who are regarded as members of the community, to vote and to participate in the process of governance of the community if they are chosen to have that role.

I draw the committee's attention to those important words in the preamble of 'a representative government'. The Commonwealth had not only guaranteed it in 1979 but went so far as to say that that process of representative government should be extended—it was possible to extend it and not reduced—not pulled back so that somehow or other that covenant was lessened in its force and effect. Therefore, I urge the committee to take these matters into careful consideration and I am certain the committee will do so in due course.

So far as other matters which I had come to address the committee about today are concerned, one of the major matters I felt should be considered was the effect of international covenant and what is proposed by the amendments to the act which this committee is inquiring into. I have been handed this morning a submission of the Commissioner of Human Rights, Dr Sev Ozdowski. I do not believe it would assist this committee for me to go over in my own submissions, as I intended to do—and found present in Dr Ozdowski's submissions—the points that I intended to make. I might, if I have the committee's permission, rely very strongly on that aspect of the international obligations that Australia must pay proper regard to in the matters set out in Dr Ozdowski's submission, if I may do so. It will save, I believe, a considerable degree of time and effort. I believe, of course, that Dr Ozdowski in his special role as the Human Rights Commissioner is vastly more experienced and more qualified than I am to make submissions on that particular matter. I urge the committee to take into the fullest consideration what he has set forward in those submissions.

I only wish to point out to the committee that on this particular matter of electoral reform of Norfolk Island, I respectfully urge the committee to allow Norfolk Island to have complete control. There is nothing which Norfolk Island is doing in its administration of its electoral laws which really runs counter to the powers that were granted to it by the Commonwealth

government. I would respectfully submit that most considerable concern must be expressed at the form of the proposed amendment to the act.

If it is intended that the qualification for Australian citizenship be the sole qualification; if it is suggested that it be one of the qualifications together, side by side, with those qualifications which exist on Norfolk Island, then I really urge the committee to consider—and it is referred to, I think in principle, in Dr Ozdowski's submissions—the very real prospect that there could take place a discrimination. It is a discriminatory effect which would be quite undesirable because if the residential qualification is reduced to six months for an Australian citizen, that runs quite counter to the qualifications of other persons who under the laws of Norfolk Island would be entitled either to vote or to seek to represent the community in its government.

I therefore strongly urge the committee to have regard to the fact that if it is included as an additional qualification it will create serious problems as to discrimination. If it is put forward as the sole qualification then I submit that the committee, in light of some of the matters I and others have put to it—and the previous submissions of the government—would consider that to be most undesirable. The requirement of Australian citizenship and the status of a British subject were taken out in 1985 after careful consideration by the Commonwealth. One might only suggest that kind of removal from the act—of that qualification which had been imposed by section 38 of the Norfolk Island Act—was done only in the process of the Australian government advancing the essential entitlements of Norfolk Island to control its laws in relating to its own representative Legislative Assembly.

It seems difficult to understand that the Commonwealth would have agreed to such a situation unless it was acting in pursuance of its solemn covenant with Norfolk Island to advance the considerations of representative government which it had guaranteed. I draw the committee's attention to that particular matter. There was held in 1994 a select committee of the 7th Legislative Assembly. A report of that select committee was tabled in October 1995 and it had considerable submissions which related to the changes to the electoral system of Norfolk Island.

I strongly urge the committee, in due course, to examine the report of that select committee because it made recommendations to the assembly at that time for the effective change of Norfolk Island's laws which would improve the electoral representation, electoral qualifications and so forth. Although I believe at that time those recommendations were under serious consideration—I do not know whether they were improved entirely as their wording consisted in the recommendations—but most certainly the Norfolk Island government has, since that time, been quite active in pursuing the question of electoral reform in Norfolk Island. It has been jolted in the last 18 months or so by this concept which has come into consideration of whether or not there was going to be this requirement of Australian citizenship put back into the act. I believe that has brought about a situation of causing some pause in the advancement of electoral reform which the government is considering at the present time.

Might I further refer the committee to a situation. Yesterday, in the sittings of the Legislative Assembly, a motion was moved which required the assembly to consider the introduction, after proper public input and so forth, of a charter for Norfolk Island.

Earlier material had been placed before the community for the community's consideration, not simply to copy word for word but to take into account what a charter would appear to provide for, so that the community could consider that.

The charter of the Isle of Man—a small territory which is very much within the authority of the British government but which is endeavouring to maintain its greatest and highest level of internal self-government—seeks to guarantee the highest levels of achievement of that internal self-government. I would respectfully submit that in due course there was a favourable reception by members of the assembly, although that matter has not yet been finally determined and is awaiting determination at the sittings next month for further material to emerge before the Legislative Assembly. But in principle there appears to be accepted the concept that there should be a charter. I would respectfully submit that, along the lines of the Isle of Man charter, it is most likely that the Norfolk Island government will be anxious to have written into its charter the highest levels of attainment of internal self-government and the creation of the representative form of government that was guaranteed to it by the Commonwealth of Australia under the Norfolk Island Act.

I do not believe it would assist the committee in its deliberation for me to take any of these matters further at this particular time, because there are ample submissions that have proceeded from the government and, of course, Dr Ozdowski's submissions which I have respectfully sought to adopt to assist me in cutting down the length of my submissions. If I have spoken at some length here this morning, it is because I speak with a great degree of passion and commitment and because it has been an immense privilege to me to represent Norfolk Island in its form of government. I am continuing to do so and I am extremely proud that I have had the opportunity to be taken into the community. I wish that all other persons who are accepted as residents of this community have the same opportunities and the same privileges and honour that I have endured.

CHAIRMAN—Thank you, Mr Cook.

Senator WEST—I understand that there were government to government discussions last week.

Mr R. Nobbs—That is correct—last Friday.

Senator WEST—I am wondering what sorts of things were discussed. Was the electoral issue discussed at the intergovernmental meeting?

Mr R. Nobbs—No, it was not discussed. The issue was an information only paper and it was not really discussed. We agreed to disagree with Senator Macdonald's views in relation to that.

Senator WEST—In relation to?

Mr R. Nobbs—This inquiry.

Senator WEST—You are saying you agreed to disagree, therefore there must have been some discussion.

Mr R. Nobbs—There have been—over some time actually—discussions in relation to the issue.

Senator WEST—At intergovernmental meetings?

Mr R. Nobbs—The bill was defeated, as you are aware, Senator, last year in the Senate. I think you were in the Senate at the time.

Senator WEST—Yes.

Mr R. Nobbs—There have been subsequent discussions, informal as well as some formal. We had an intergovernmental meeting last June where it was not discussed. There was some indication post that meeting, between meetings, that it would be referred to a Senate inquiry. We have not had any real discussions and definitely no formal discussions.

Senator WEST—You have not sought to put it on the agenda?

Mr R. Nobbs—No. This government was elected at the end of February last year and was sworn in about early March. I think your sittings were immediately after that, at which the bill failed in the Senate. It was then considered to have gone away. Towards the end of last year this inquiry was set up and it has taken its course ever since. We have not had any governmental discussions in relation to it.

Senator WEST—Do you think it would be appropriate to have some?

Mr R. Nobbs—No, I really do not think so. My colleague Mr Buffett has been involved in it a little longer than I have, particularly in relation to this issue. We believe the community has indicated that they are not interested in progressing this particular issue. That has been shown in two referenda to date.

Mr Buffett—Senator, to some extent ministerial discussions have been sidelined by referral to a joint standing committee. Yes, we have reached somewhat of an impasse with Minister Macdonald in the discussions on these matters, but that does not mean that there is still not a prospect in ministerial intergovernmental meetings to endeavour to bring some resolution to the matter. Although we are having difficulties in that arena at this moment we certainly do not believe that the way to solve the matter is to refer it to a joint standing committee.

Senator WEST—How do you think it should be resolved?

Mr Buffett—We need to have some further in-depth discussions with the minister in an effort to meet an accommodation of some understanding of Norfolk Island's situation.

Senator WEST—Are you saying to me that none of the proposals are even up for discussion or that you want to contemplate discussing any of it, or is there room to negotiate and room for consultation and some consensus to be arrived at?

Mr Buffett—I think it has been demonstrated that Norfolk Island has, on a number of occasions, worked through issues and there has been some element of give and take. Whether that can be totally done in the particular issue that is in front of us remains to be demonstrated. If there is some thought that Norfolk Island has always been immovable in walking through issues with the Commonwealth, it can be demonstrated that that has not been so. We are very firm on the points that we have been making and we have endeavoured to demonstrate the reasons why we are firm on them. That should not preclude further discussions, if in fact we have not reached an agreed position.

Senator WEST—How about we walk through now what is absolutely not negotiable and what is possibly an area that, with some work, can be resolved? Where are the areas you think something can be resolved, or there can be some amendments to the bill that would leave you quite happy?

Mr Buffett—The first thing is that they should not be in an Australian bill. By removing it from a Norfolk Island piece of legislation into an Australian piece of legislation, it is moving backwards in the devolution of authority that was specified in the Norfolk Island Act.

Senator WEST—There are a number of acts of the Australian parliament, though, to which you are subject, as is every other state and territory in the land. This is part of Australia, as I understand it. On the issue of citizenship, I do not quite comprehend why, to vote, you do not have to be an Australian citizen. I fail to grasp that particular point. What is the problem with dual citizenship, given that for people to be here to vote in a Norfolk Island election they have to be here on this island for something like 900 days out of four years or five years? Someone who is permanently resident on Norfolk Island for more than three years presumably can become an Australian citizen under Australian law. Am I correct?

Mr R. Nobbs—On Norfolk Island?

Senator WEST—Yes. If somebody who has permanent residency in Australia and gets whatever type of entry permit into Norfolk and if they remain on Norfolk for the three-year period with their Australian permanent residency, can then become an Australian citizen? Is that correct?

Mr Buffett—That could be so, but that is not for us to decide. That is for the Australian authorities to decide.

Mr R. Nobbs—I am not too sure.

Senator WEST—That is fine. You were expressing concerns to me and saying, ‘No, dual citizenship won’t work.’ The point I am coming from is that you have a lengthy period of time before somebody on this island is able to actually exercise the right to vote. I am putting it to you that I think the length of time that you require is very similar to that which if somebody came here from another country—and they would only get here if they have Australian permanent residency or they are a New Zealand citizen—is the length of time in which they then have the right to apply for Australian citizenship. Australia does not require them to lose their citizenship from another country, so what is the problem with those people who obviously

have been here for more than three years, who have the right to vote here, also obtaining Australian citizenship?

Mr R. Nobbs—What is wrong? We have a different immigration regime here. That is what the thing is. They can please themselves whether they take Australian citizenship. That is from our perspective—

Senator WEST—But you are part of Australia, are you not?

Mr R. Nobbs—It is debatable.

Senator WEST—Let's face it, you have a history of white colonisation of this island that is very similar to the big island to the west. Some of us have probably got ancestors that came here before the Pitcairners, through no choice of their own either, I might add.

Mr R. Nobbs—And some of us have got ancestors, including me, who came here a long time before the actual Pitcairners, as you say, and also the First Fleeters. The First Fleeters came here and the convicts came here and they were on the island here for about 50 years, I suppose, all-up. I cannot recall offhand, but from about 1790 through to 1852 or something like that. They departed. The Dutch arrived in Australia so your Dutch over there—

Senator WEST—Is there evidence the Dutch came to Norfolk Island?

Mr R. Nobbs—No, there is not, but they did arrive in Australia and they departed.

Senator WEST—They arrived on the west coast and Van Diemen's Land.

Mr R. Nobbs—Yes. We have a representative from the west coast there, but the argument simply is that the convicts came and went and the Pitcairn Islanders, as a community, a total community, were relocated from Pitcairn Island to Norfolk Island.

Senator WEST—Yes, I know that history. That does not get away from the point I am trying to discuss with you in relation to what is the problem with having Australian citizenship as one of the criteria for eligibility, when the length of time that people would have to be on the island is such that they would be eligible to be Australian citizens; they cannot get on to the island, as I understand it, they cannot come to the island unless they are of New Zealand descent or they have permanent residency in Australia. Is that correct?

Mr R. Nobbs—No. They can come from anywhere.

Senator WEST—So anybody can come to this country.

Mr R. Nobbs—Yes. We are now utilising—and I will emphasise utilising—the Australian immigration department and their visa situation at the present time. That has been brought in by this government and that is for the protection of both the Norfolk Island people and the community—

Senator WEST—And Australia.

Mr R. Nobbs—and Australia. That was agreed to. Minister Cook brought that in, the previous Minister Cook. The situation is that people can come from anywhere and reside on Norfolk Island.

Senator WEST—Yes, but if you are utilising the Australian mainland visa system, then presumably they can only come here and stay here for more than 12 months on a permanent residency visa or a special classification of visa—

Mr R. Nobbs—But I do not think I made it clear that is only a border control at the present—the visa is a border control. They then come into our immigration system and we have a variety of permits.

Senator WEST—Yes, that is right.

Mr R. Nobbs—And they become part of that system.

Senator WEST—That is right, that is fine. I am not dealing with that. I am dealing with the issue of eligibility to become an Australian citizen and tying that eligibility in with your variety of permits when they get to the right to vote on this island. It seems to me that your allowing the right to vote on this island would occur at about the same time as someone's eligibility to become an Australian citizen. Therefore I ask the question: what is the problem with dual citizenship?

Mr Cook—If I might answer that, Senator, probably as a legal matter, because it seems to have quite strong elements of compelling people who might not otherwise take out Australian citizenship and might retain their own, as they undoubtedly have a right to do, about which you have referred. It is compelling them to take out Australian citizenship to exercise a democratic right to either vote or represent the community in which they live.

Senator WEST—That is a right. That is exactly right and that is a choice they make on the mainland. They become an Australian citizen and they participate fully in the workings of the community by voting. If they choose not to become an Australian citizen, that choice means they have elected not to participate.

Mr Cook—But I might draw your attention to the fact that you have a very much smaller community here involved in the government of its affairs than you do have in Australia, where a person may make that choice realising in accepting that there is a vast array of people out there who are taking care of—in inverted commas—the election of a government. What I am concerned about—and if I might say, and I have already made it in my submissions, if I have understated that—is the fact that people should not be compelled, they should be able to make that choice without the compulsion that if they are going to have a say in the community's affairs then they have to take out citizenship which they otherwise may choose not to take out.

Senator WEST—You are saying that it is impinging on their rights.

Mr Cook—Indeed I do. I say there are international covenants which guarantee but may have to be very carefully examined—I am not necessarily going to the chapter and verse because I have taken the stance that basically, with the opportunity I have had to read it, Dr Ozdowski's submissions substantially cover these matters and touch very clearly on the questions of discrimination. But there can be no compulsion on a person who is accepted into a community and becomes a resident in that community to take up citizenship. I think the very important matters to be considered here is the right to residency which gives you the right to permanently reside and stay here on Norfolk Island and the questions of citizenship.

Senator WEST—So you do not think with rights come obligations.

Mr Cook—I do not believe it becomes—

Senator WEST—You do not think there is a mutual balancing act to be had here, that if somebody has a right to something they also have an obligation to do certain actions as well.

Mr Cook—No, I believe that if they come into a community, as so many people have, when it was clear that they could take part in the governance of the community, then it would be incorrect to then impose a barrier. I realise probably those people who already have the right will no doubt appropriately retain the right because of these provisions basically not being able to be retrospective, but it may very well deter people who could otherwise contribute a great deal to this community.

One of the things that I might refer to is the accent on multicultural diversification of communities which enriches and strengthens the community. It takes place in this community and at a high level. I think, as I recollect in the last involvement of multicultural day here on Norfolk Island, or celebration day, there were something like 27 or 28 different, as it were, racial communities or cultural backgrounds which were represented. So there is considerable diversity and I generally submit to the committee that it would be inappropriate to compel people to become citizens when they have elected to become permanent residents of a community.

Senator WEST—I am not talking about compelling them to become Australian citizens, I am just linking the right to vote with the obligation to choose to be part of the country by being a citizen of that country.

Mr Cook—Yes, but if you have been admitted to permanent residence of the community by decisions which are properly made by the community through its representatives, then surely you should not be compelled to have to take up the citizenship as a qualification for your opportunities to be involved in governance of that community.

Senator WEST—Doesn't someone's failure to become a citizen of the country actually draw into question their commitment to that country? It is a two-way argument that we could have all day and get no further.

Mr Cook—I hope I have made my point, Senator.

Senator WEST—You have made your point and I probably do—as Mr Nobbs said earlier—choose to disagree.

Mr Buffett—I see the point you are making about responsibilities but I think it needs to be mentioned that the commitment sought from people who enter the Norfolk Island sphere is a commitment to the Norfolk Island community. Up to this time that has not meant taking the citizenship of Australia. I know you are very strong in wanting to endeavour to extend that situation to Norfolk Island but, from Norfolk Island's perspective, the commitment has been to the Norfolk Island community and that is seen as paramount. There is a matter of commitment when you enter into the arrangement but it is to this place.

Senator WEST—Can you outline for me why there should be a difference in commitment to Norfolk Island and to Australia. Don't we have the same aspirations? Don't we have similar commitments, standards, care for the rest of the community, care for our elderly, care for our minority groups and all that sort of thing?

Mr Buffett—Yes, indeed.

Senator WEST—I do not quite understand what the difference in commitment is between the two land masses.

Mr Buffett—We do have many similar commitments.

Senator WEST—Where do we differ?

Mr Buffett—We have arrived at those standards by the thread that the chief minister and I have endeavoured to describe to you. They have not necessarily come from the Australian thread. Just because they are the same does not mean that we should be part of that particular scene. I am pleased that you recognise Norfolk Island has similar standards and, in fact, you recognise many of the things that you have mentioned may exist in this place, whether it be from your reading or just personal observation. That indeed is a compliment to us.

But it is not the same compliment if you see something that may be similar to yours, that ours should be yours. That is quite different. Norfolk Island has reached where it is by its aspirations. Just as Australia, in reaching the centenary of federation, has worked through its aspirations, we—in our smaller way—have ours, too. It has led us to where we are. It does mean that in many ways we are similar but we must say, with respect, that does not mean necessarily part of—in the way that you are describing—nor in the way that you are endeavouring to overlay the totality of Australian citizenship in this place. Good though Australian citizenship may be, we are asking you to understand that Norfolk Island has these differences.

Senator WEST—Do the Norfolk Islanders get the right to vote in referenda on the mainland?

Mr Buffett—No.

Mr R. Nobbs—No, we do not.

Mr Buffett—As an example, you have just had the republic referendum and various others.

Senator WEST—Is it an option? Do you get the option to vote?

Mr Buffett—There are some Norfolk Island people who may have an individual option to be part of an Australian electorate, but Norfolk Island is not.

Senator WEST—No, but individuals on this island can actually participate in Australian referenda and in Australian federal elections.

Mr Buffett—Yes.

Mr R. Nobbs—Yes, if they desire.

Mr Buffett—If they desire.

Senator WEST—But it is a right there. You just mentioned the centenary of federation. Presumably as New South Wales was administering Norfolk Island in 1900—if you like history, this is a history question I will have to get the parliamentary library to search out—was there an opportunity at that referendum in the lead-up to Federation in 1901 for the people of Norfolk Island, if they so chose, to participate in that referendum?

Mr Buffett—Absolutely not.

Mr R. Nobbs—No.

Mr Cook—Senator, I have been trying to dredge back in my mind—and I certainly do not want to be in error and, if I am, please correct me—but I understood that prior to 1984 the qualification to actually vote in elections in Australia was not based on citizenship, it was based on residence for a period of time.

Senator WEST—The only non-Australian citizens who were entitled to vote were those from Great Britain and possibly New Zealand. That was all.

Mr Cook—Was that changed subsequently?

Senator WEST—To be eligible after that date in 1984 you had to be an Australian citizen. They did not change the eligibility for those who had the existing right to vote—which were British citizens—and I cannot remember whether New Zealanders were involved or not; certainly the Brits were. But since then, everybody who enrolls to vote has to be an Australian citizen.

Mr Cook—Could I draw your attention again to what I said, that in 1985 the Commonwealth government removed the qualification for election to the assembly of being an Australian citizen or a British subject, so they deliberately removed that.

Senator WEST—Was it a deliberate removal or was it an unintended consequence?

Mr Cook—I believe it was a deliberate removal.

Mr R. Nobbs—It was deliberate.

Senator WEST—Some might say it was an unintended consequence, though.

Mr Cook—If I might say so, I think contained in these documents submitted by the government. there are representations, correspondence and material to show the Commonwealth acted in that way deliberately in 1985. For them to have done that in light of the fact that they had just introduced a citizenship qualification or otherwise, that you have said in 1984 clarified it, seems that they were quite clear at that time that Norfolk should be in a different position.

CHAIRMAN—What act are you referring to, Mr Cook; the Norfolk Island Act or the Commonwealth?

Mr Cook—No, it is in the submissions that have been forward by the government.

Mr R. Nobbs—Can I make a comment just in relation to a couple of things that Senator West has said. The first one is about Norfolk Island and Australia being similar in looking after the old people and other things. The Kiwis and the poms do exactly the same, Senator, I believe, and therefore they are really no different to the Australian and Norfolk Island situation. The second point I would like to make is that passports for residents of Norfolk Island do provide for a sticker to be placed in them—be it a British passport, a Fijian passport, I think, or New Zealand passport—to show they are residents of Norfolk Island. This is provided by the Norfolk Island government to those who so desire.

The third point came up from something Mr Cook stated in relation to culture. We have got a chap over here from the Salvation Army at the present time. He has been here for about 36 hours, I guess, and he has been rushing around, interviewing people and looking at areas where they may be able to help us in relation to the drug and alcohol situation. It was very striking in all his discussions yesterday—and I spoke to him this morning—where he said one of the issues he had overlooked was that he thought Norfolk Island would be exactly the same as Australia, but he said the cultural difference was highly significant.

The fourth point I would like to make is in relation to citizenship for Australian elections. I understand that dual citizenship is allowed for enrolment, but it is only Australian citizenship if you are elected. That seems to me an anomaly.

Senator WEST—That one you will have to argue with the High Court because there are High Court Rules on that. They made the decisions. You can argue that one with the High Court. I am not a High Court judge.

Mr Buffett—Senator West, you earlier made mention of the fact that there may be people in Norfolk Island who could vote in the Australian referendum or electoral processes in Australia. I think you were inferring that if it happens why shouldn't there be the extension of the arrangement that you have been talking about earlier here?

May I just point out that that provision was not sought by Norfolk Island. In fact, it was forced upon Norfolk Island. In fact, we fought hard against that arrangement. It is not something that we sought to participate in there; it is something that has been thrust upon us. In not dissimilar to the way that there have been attempts to pursue the matter that is in front of the committee at this moment.

Senator WEST—There would be a few issues where the state governments and the territory governments would agree with you about the Commonwealth government forcing issues on them so you are not alone there, if that is any consolation. I will let my colleague develop—

Mr Buffett—Yes, of course, all those other territories and states of which you speak had an agreed arrangement to form a Commonwealth. Norfolk Island was not part of that arrangement.

Mr Cook—May I answer your question, Mr Chairman, just so we do not pass from it. The point that touches upon all these matters and it is easier for me simply to refer to is page 7 through to at least page 10 of the submissions of the government. It was an amendment to the Norfolk Island Act in 1985. I think the situation has clearly been set out in those submissions.

CHAIRMAN—Is that in the Commonwealth act?

Mr Cook—Yes.

CHAIRMAN—Thank you, Mr Cook.

Ms ELLIS—Mr Buffet, can you please explain to the committee what criteria or what measures you use to determine one's commitment to Norfolk Island? How do you judge that commitment?

Mr Buffett—There is a significant immigration process in Norfolk Island. There are separate immigration laws here to those which exist in Australia. There are laws which cover people who would want to stay temporarily on the island which are obviously less demanding. Then there are laws and criteria which relate to people who want to stay for the long term. There is a range. Obviously it relates to people's capacity to do what they want to do and their commitment to do what they want to do, whether that be in the form of qualifications or experience. It relates to their capacity to look after themselves both financially and otherwise. It is a measure of the range of activities in which they involve themselves in the community to be part of the community.

It involves ensuring that they have reasonable health arrangements so that in fact they will not become a burden upon the community. These are tested at the beginning, but at the end of the stage there is also another process which allows people to apply for resident status, which is the final status for criteria. That means people's names are publicised in the community which allows the community to make comment of whatever nature they might think so that there is quite a demanding process of acceptability.

We have found that people who come into the community, in many ways not dissimilar to other places, I suppose, come in and think everything is known on day one, but the longer you are here—people will say this to you; Mr Cook has demonstrated that to you today—that in fact

certainly you do not cease learning but after a more lengthy period of time one finds that you have a deeper depth of the cultural arrangements, the environmental arrangements, how small the island is, how fragile it is both in terms of its infrastructure, its economy and the environment in which we live. If you go to the top of Mount Pitt you see its absolute extremities without any difficulty whatsoever.

Ms ELLIS—Yes, I have done that.

Mr Buffett—That has great fragility. To be quite frank it requires certain people to understand and to work and live well in that community.

Ms ELLIS—Do your immigration policies have a population number?

Mr Buffett—We recognise what the basic population is and over the past number of years we have aimed at a two per cent population growth. I think it is fair to say that we have not always struck that two per cent but that has been a policy over some period of time.

Ms ELLIS—Can I just take the discussion into the question of the referendum that is being held. Mr Buffet referred to it directly and others indirectly. I am in the Labor Party and I understand numbers very well. But can I say that there is a growing number—albeit still a minority—on the island, but an increasing number of people who are reacting differently to maybe the views of the NIG when the referenda questions are put. It is the committee's observation, I guess, that in the last referendum the two separate issues that were being asked in the one question may have in fact, to some degree, dictated or predicted the outcome of that question. I have picked this up, frankly, just chatting around the place that the 'Yes' for Australian citizenship question was nowhere near as provocative as the second question, but the whole thing was voted down because it was all in one. Can I get your views on that? I understand very well how referenda questions can be framed; we have a history of it. Not in the Labor Party—if we had they may have been more fairly done, but that is just my observation.

Mr Buffett—The referendum question was put in those terms because that was the proposal of the Australian government.

Ms ELLIS—To put it in one question?

Mr Buffett—No. The Australian government did not put a proposal to us, 'This bit or that bit.' It put a proposal to us in exactly those terms. 'That is what we want to do'—this is the Australian government speaking. That is the question that was asked of the Norfolk Island community. It is rather naughty for you to say that that is a loaded question.

Ms ELLIS—No, I did not say that. You are drawing that conclusion from my comments. I did not say that at all. If you wish to draw those conclusions, you do so, Mr Buffett.

Mr Buffett—I need to explain to you that that was the proposal put to us and that is the proposal we passed on in the referendum.

Ms ELLIS—May I suggest do not protesteth too loud.

Senator WEST—What was to stop you from splitting the question?

Mr Buffett—Because the Commonwealth did not split the proposal.

Senator WEST—So you always agree with the Commonwealth?

Mr Buffett—No, we do not, but we need to put fairly what the Commonwealth is proposing to us.

Mr R. Nobbs—Ms Ellis, in relation to referendum there is a yes and there is a no vote. Both sides can put their arguments.

Ms ELLIS—Yes, I realise that. I know how they work. I understand very well how they work.

Mr Buffett—May I say that if you feel there may be some element of what you say, let me just point you to the fact that notwithstanding that, the percentage against was significant; 71 per cent on the first—

Ms ELLIS—I understand that. I am not denying that for a moment.

Mr Buffett—Very significant.

Ms ELLIS—I am not denying that for a moment. That is, in fact, the basis of my question, that a number of people, I am absolutely certain—it is logical whether you agree with a view or not—would have had a view in one part of the question that would have been different to their view on the other part of the question and therefore would have felt themselves, of their own choice, to vote no.

Mr Buffett—For example, do you feel that would have reduced that to below 50 per cent?

Ms ELLIS—I would not predict that at all; I do not know. I do not think anybody should predict that. It is just a question that I think needs to be canvassed.

Mr Buffett—Yes, then I am not too sure there is great substance in your argument, if I might—

Ms ELLIS—I am not arguing it. I am just posing the question for your views. That is all I am asking.

Mr Buffett—Yes, I think you are getting our views.

Ms ELLIS—I am. Has there been any attempt by the Norfolk Island government to discuss any further with those 200 and however many there were of their views? It is a very slightly growing minority but it is increasing a little bit. Is the government concerned about that?

Mr Buffett—Just elaborate your concern about increasing, please. Are you talking about the previous referendum?

Ms ELLIS—Yes. There is a bit of history about a slight—and I am emphasising the point, Mr Buffett, that it is slight—but in previous referenda the yes vote is increasing very slightly.

Mr Buffett—Yes.

Ms ELLIS—The yes vote. I am not basing my whole question on that premise alone.

Mr Buffett—No.

Ms ELLIS—I am just making that as a side observation. But if there are 247 people out there who voted yes, has there been any opportunity taken by the Norfolk Island government to canvass the views of those people any further, or does it just not matter at the end of the referendum?

Senator WEST—Because you are into minorities.

Mr R. Nobbs—The problem is that we have secret referenda here so you do not know who has voted what, really.

Ms ELLIS—Yes. I realise that.

Mr Cook—Mrs Ellis, could I point out of course the earlier referendum—you talked about questions having a particular leading quality or tendency to bring about a result—but it was made fairly clearly there was a resounding no to the question asked, ‘Do you think it’s appropriate that the Australian government dictates the electoral process on Norfolk Island?’ In a real sense it was 78 per cent. I appreciate you are talking about the differential possibly between that and the subsequent—

Ms ELLIS—I am talking about the most recent one.

Mr Cook—But that was a very strong statement of lack of interference and desire of interference. I am using that in inverted commas, the word ‘interference’.

Ms ELLIS—Yes, sure.

CHAIRMAN—How many people voted in that referendum? Do you have those figures?

Mr Cook—Yes.

Mr Buffett—It was 964 in the last and 917 in the one before.

Mr Cook—So there was a slight increase.

CHAIRMAN—That is about half the population. Was that a great deal of the eligible people who could vote?

Mr Cook—That was the eligible people who could vote, to the best of my understanding. I am sure the Hon. David Buffett would clear that up. But I am sure that was the case.

Mr R. Nobbs—The electoral roll was about 1,100 at that time. We have usually 100 off the island at any one particular point in time.

Ms ELLIS—It is compulsory, isn't it?

Mr Cook—It is not compulsory to enrol, but it is compulsory to vote if you are on the electoral roll. That is indicating there is quite a political awareness in the community, if the very large number of adults in the community decide to enrol, to exercise their democratic privileges.

Ms ELLIS—Mr Cook referred frequently in his presentation this morning to the submission from the Human Rights and Equal Opportunity Commission and I think Dr Ozdowski. Whoever on the panel who wants to can reply to this. I want to quote two parts of his submission, which relates to question B. He says:

At present, by reason of the residency requirement in the Legislative Assembly Act 1979 (NI), an Australian citizen relocating to Norfolk Island is effectively deprived of the right to participate in public affairs at a local level for a period of at least 900 days.

He then says, further down in the same paragraph in the same section:

However, it would arguably be unreasonable to impose a local residency requirement that effectively treats Australian citizens relocating to Norfolk Island as though they were citizens of a foreign state.

Could any of you please comment on those views?

Mr Cook—I think, of course, the guarantee that is given in the international covenant is that all individuals within a territory shall be treated equally. That is guaranteed under the international covenant which has been adopted into the human rights commission.

Ms ELLIS—So can you explain this is wrong, that he is saying on the one hand—and I would be happy if I have got this wrong—that an Australian citizen relocating here does not have the right to participate in public affairs for a period of 900 days. Is that correct?

Mr R. Nobbs—He has in Australia.

Ms ELLIS—No, here, relocating to Norfolk Island.

Mr Cook—Yes, that would be so but—

Ms ELLIS—That is correct. I just want to get this clear because it is very legal. An Australian citizen relocating here to Norfolk Island cannot participate in public affairs for a period of up to 900 days; is that correct? He is arguing that it would be unreasonable to impose a local residency requirement that effectively treats Australian citizens relocating to Norfolk

Island as though they were citizens of a foreign state. Can I get a comment from any of you on that.

Mr Cook—I must admit I had not absorbed that in the short time I had to read these submissions. It does not seem to me to necessarily equate with the fact that all individuals within a territory must have the same rights and be treated equally. It seems to me that in my role, as I was minister for immigration last year, it was quite clear the Australian government maintained at the time of the introduction of this, as it were, qualification only to purposes of travelling to Norfolk Island and to enter into Norfolk Island—that is, to hold an Australian visa as a protection of both border controls. There was no question that the Australian government at the same time was guaranteeing the rights of Norfolk Island to determine the terms and conditions under which a person should remain on Norfolk Island.

That was in recognition of and, in fact, one might say, almost in the face of the human rights commission's reports in the territorial limits. The Australian government has done, in a sense, nothing about that in any positive way. By the same token, it is appreciated that it was the minister for immigration the Hon. Mr Philip Ruddock's situation that it had not yet been considered in the cabinet; nevertheless, he maintained in the strongest terms, as did other officers of the department, that there would be that right in the Norfolk Island community to lay down the conditions and determine matters relating to remaining on Norfolk Island after that preliminary requirement of entry. So it seems to me that if you have that control and you have that right to say to Australian citizens, 'You can't come into Norfolk Island unless you qualify under our immigration laws,' then I see no reason why, contrary to that, there should be a restriction on the time in which they are entitled to vote, if that applies to all other persons, no matter where they come from.

Ms ELLIS—Does anybody else want to say anything?

Mr Buffett—I just wanted to point out that, yes, that is the case in respect of 900 days in normal circumstances, but there are additional provisions which have a shorter time for people who return to the island and want to re-enrol. That is almost a passing comment in that context.

Ms ELLIS—That is a provision for those who were here, who have gone and come back?

Mr Buffett—Yes.

Ms ELLIS—I am seeking advice here because I may be misunderstanding this. I am not a lawyer. It does not, as you have just put it, Mr Buffett, rebut the proposal as put into this particular document. I do not want to be provocative. It is my third visit here and I love coming here. But I think this particular bit of the argument is underpinned— and correct me if I am wrong—by the earlier comment by Mr Nobbs in answer to the question, 'But it is part of Australia, isn't it?' There was an answer, 'That's open to question,' or a reply of a similar nature came from Mr Nobbs. Maybe this particular bit of it comes back to that integral argument that some on the island have, but not all have—that is, whether or not Norfolk Island is and remains a part of Australia.

Mr R. Nobbs—Yes. That is the argument.

Ms ELLIS—I do not wish to bring that into this discussion but it seems to me that flavour underpins some of the things we are discussing here this morning with you gentlemen. Is that true?

Mr R. Nobbs—Bearing in mind that we have a different immigration regime here and those sorts of things—

Ms ELLIS—I respect and understand all that.

Mr R. Nobbs—In reality I suppose you can say, when you mention about an Australian coming in here, that they are treated as a foreigner. They are, as far as our immigration is concerned, yes. That is where the difficulty is.

Ms ELLIS—Precisely. I just finish off by making the comment that I understand respect that, but it comes back to the basic tenet of the problem we have, I think, to some small degree. It addresses very directly the point made in the human rights commission referral to question B—that is, an Australian citizen in Australia is treated differently to an Australian citizen in Norfolk Island, which we believe is part of Australia, in terms of the questions we are considering at the moment. That is something we will all need, collectively, I believe, to grapple with.

Mr Cook—Mrs Ellis, I do not want to repeat myself, but in public international law, which has been substantially recognised in the international covenants to which Australia is a party, the question of the right of a satellite—I use the word and I do not intend that in a majority way, and I am sure you will understand it—a sort of satellite community to a larger community—I am trying to not go into the all the political and governmental concepts—but there is the definite right in the small community in its relationship to the large community and to all others to protect its public order and its system of government.

Ms ELLIS—Absolutely.

Mr Cook—I simply stress that. This is a right which is inalienable under public international law and must be recognised. If we do have that capacity and proper right to control the situations in view of the things referred to by the Hon. David Buffett, of the fragility of the community and all those environmental aspects, all the infrastructure aspects and everything else, then we do have a right to lay down fairly stringent conditions. While on the face of it they might say, ‘You’re really stopping Australian citizens doing what they should be able to do all over Australia,’ there are very good reasons in law and otherwise why we should have that right.

Ms ELLIS—I think that is the discussion.

Mr Buffett—Could I just endorse what has been said by Mr Cook, but also emphasise that situation has always been so in Norfolk Island.

Ms ELLIS—Yes, I know.

Mr Buffett—That recognition of what Mr Cook has said has always been recognised in Norfolk Island.

CHAIRMAN—I want to ask you a question, Mr Cook, not as a member of the Norfolk Island community nor as a former member of the legislature here, but as an eminent QC. There seems to be some sort of mythological ambiguity that Norfolk Island is not an integral part of Australia, albeit with differences. Could you confirm that that is the case?

Mr Cook—Mr Chairman, may I correct, firstly, that I still am a member of the Legislative Assembly.

CHAIRMAN—Yes, I beg your pardon. You have stepped down.

Mr Cook—That is right. I was an executive member formerly last year, but I still speak in my private capacity, not detracting from the submissions already made by the government, as I said earlier. I find the question you have put to me a very difficult question to answer indeed. I am aware that there is a body of opinion which claims that Norfolk Island has a particular relationship to Australia. I do not pretend to be an expert in constitutional law.

CHAIRMAN—You would not dispute that relationship, would you?

Mr Cook—I think it is up to considerable question to define exactly what the relationship is.

CHAIRMAN—There is a relationship, at the very minimum, with Australia. Are you saying that you are a totally independent nation here?

Mr Cook—No. I cannot or would not, as a lawyer, deny that there is indeed a relationship. I do not pretend to be an expert in constitutional law but I can see the many legal arguments that have been put forward on both sides. I would tend to the view that Norfolk Island is in a very special relationship in the circumstances which arose from the original right to come here to Norfolk Island, to occupy the land on Norfolk Island by the Pitcairn settlers, what happened thereafter; all the processes which took place at the end of the century and all the processes which took place after Federation. I repeat what was said earlier, that Norfolk Island was not part of Federation or part of the state at the time of Federation. I tend to support, if I might say so—and I think it is correct and I have not come prepared to specifically answer the question—the opinion of Mr Ellicott of Senior Counsel and Mr McClelland.

CHAIRMAN—The former Attorney-General?

Mr Cook—Yes. I tend to support their view about that for essential reasons.

CHAIRMAN—If I can add to what you have said, Mr Cook, neither was Christmas Island, in my memory—as a historical record—part of Australia at Federation either.

Mr Cook—No, I understand that.

CHAIRMAN—The Cocos (Keeling) Islands were the same, of course.

Mr Cook—Yes.

CHAIRMAN—They were not a part of it. Mentioning the fact that it was not a part of it—I think your colleagues here today have mentioned that same thing—has no bearing on the fact that it is an integral part of Australia, albeit under very special circumstances.

Mr Cook—I believe it does come under the authority of the government of Australia.

CHAIRMAN—Of course it does.

Mr Cook—By virtue of the constitution and orders in council. That is different to saying that it is part of the Commonwealth.

CHAIRMAN—It is an integral part of Australia and it still comes under section 109, which is something along the lines of, ‘Where a state has conflicting law’—and for ‘state’ read ‘state or territories’—‘with the Commonwealth, insofar as the conflict, the federal law or the Commonwealth law shall prevail.’

Mr Cook—Mr Chairman, please do not take it in the slightest of any disrespect to the views that you advance, but I tend to believe this question will ultimately and possibly need—if we cannot reach common agreement and consensus on the proper view that must be taken as the law—to be thrashed out on the floor of the High Court.

CHAIRMAN—I think it has been thrashed out, with due respect.

Mr Cook—I am sorry, I do not wish to be evasive. I do wish to advance material to you which will be of assistance to the you in its deliberations. I have no desire to. I refrain from advancing an expert opinion. I do prefer, when I am asked to do so or suggest what my view is, the opinion put forward by Mr Ellicott and Mr McClelland.

CHAIRMAN—We will be studying the *Hansard* of what you have said, Mr Cook. Someone did ask about dual citizenship and it has come up on several occasions this morning. Dual citizenship is allowed in Australia for Australian citizens. You do not have to renounce your citizenship there at all, with the sole exception that if you wish to run as a candidate for the federal parliament, you must renounce all of your citizenships—if you have multiples of them and some do—other than your Australian citizenship.

Mr R. Nobbs—Why is that?

CHAIRMAN—The High Court determined that it was in the constitution.

Mr Cook—In *Sykes v. Cleary*?

CHAIRMAN—Yes. Later it was Victorian senator elect Hill.

Mr R. Nobbs—The reason is that you have to show that you are—I forget what the words were.

CHAIRMAN—I do not know the reasons the High Court gave.

Mr Cook—You might be subversive towards the government.

Mr R. Nobbs—Yet you can be elected by a bunch of subversive people. I find that quite difficult to understand what it is all about.

CHAIRMAN—Where you get millions of people, Mr Nobbs, there is bound to be some element, insignificant or otherwise, of subversion.

Senator WEST—How do you define it?

CHAIRMAN—Yes. With respect to the referenda questions that you ask here, who frames those questions? Do you seek the opinion of the Commonwealth government in doing those referenda questions or is it something that you frame and initiate yourselves?

Mr Buffett—It rather depends who initiates the referendum and where the initiation of a referendum commences. There are a number of areas in which it can be so initiated. It may be initiated by the Legislative Assembly, for example. If that be the case it is likely that the question would be agreed by the membership of the assembly.

CHAIRMAN—How many referenda questions have you had since self-government?

Mr Buffett—Three on this issue. We could do some research and tell you, since 1979.

CHAIRMAN—Could you take that on notice then.

Mr Buffett—That is very readily available, yes, but I do not have it on the tip of my tongue.

CHAIRMAN—Mr Cook, you said earlier in your contribution that you will be a stranger here until you die. I wonder how that then conflicts, if it does, or fits with the welcoming of people into Norfolk. If you say that they take you into their homes—'I came here unclothed and I'm clothed'—although you stood apart from that yourself, how does that fit when you say you are still a stranger after so many years, after marrying into, I understand, a former Pitcairn family? Yet you are welcomed into the homes as if you are not a stranger.

Mr Cook—Mr Chairman, the point I was endeavouring to make is that to be assimilated into the community of Norfolk Island is a very complicated and difficult process. If one enters into it in the true spirit of commitment and determination to learn as much as one can and to feel that one does know all the elements which are so readily able to be absorbed by those who are the true descendants of the Pitcairners who lived here, I believe what I was trying to express—and I repeated to you in case it needed that necessary clarification—was that the community would not necessarily regard me as a stranger. What I was trying to say was what I might feel in myself as to my qualifications, to be able to look at myself and say, 'Well, I know everything about the community.'

CHAIRMAN—I see, yes.

Mr Cook—I was endeavouring, if I might say so, sir, to be somewhat humble but nonetheless realistic in the fact that I would feel that it would never be possible for me to know everything about the community, even in the 18 years that I have been here. I am not too certain about how much longer I have.

CHAIRMAN—But a considerable time from any perspective.

Mr Cook—That is nice to know. Could that be official and could I have that on the record—that I am given that right?

CHAIRMAN—That is not in our hands, of course.

Mr Cook—Unfortunately.

CHAIRMAN—Chief Minister, if you had, in a hypothetical case, the option between having one passport—your Norfolk Island passport or your Australian passport—which one would you choose? Which one is more important to you?

Mr R. Nobbs—That is a really simple question and answer, Chairman, because what I would love to do is to have a Norfolk Island passport. If we have to have an Australian passport, I would like clearly enunciated on the front of it—as are some of the Channel Islands, I understand—the words ‘Norfolk Island’. That is it.

CHAIRMAN—That is to have an Australian passport that differentiates between the mainland and Norfolk Island.

Mr R. Nobbs—It would be good, and it would be particularly good because of the fact that you are a resident of the island and you can come and go as you please. The stickers are at times seen by some jurisdictions—and I do not say Australia—not to be accepted. If we had our own system that would be fine. It is pretty important to me personally that we are recognised. I would like to make a point in relation to that. This integral part of Australia is something that I never grew up with. That word is something I have never heard before in my life until I came back here about six years ago and I find it—

CHAIRMAN—From Australia?

Mr R. Nobbs—From Australia, yes, where I helped them develop part of Australia, Mr Chairman.

CHAIRMAN—Yes. We appreciate your contribution very much.

Mr R. Nobbs—Thank you very much, sir. It is on the wall at home. But not in the bank account, unfortunately. The situation is that this integral business, as I say, I never grew up with. We were accepted as in close association with Australia and running our own affairs even though we had an administrator and a purely advisory council. The island looked after virtually its own affairs and it has since self-government. You read in the Grants Commission—it’s a very good document and I recommend you look at it—that it recognised there was X million

dollars expended by the Australian government on Norfolk Island and the majority of it seemed to be in providing the administrative arrangements for the Commonwealth perspective and also included the department in Canberra. I think it is rather unfair that those figures were quoted.

However, as I said, I do not believe that we are an integral part of Australia. We have a close association with Australia and we accept it, but we are also associated very strongly with New Zealand. This is the perfect place here for the Anzac tradition to continue.

CHAIRMAN—Yes, I probably would not dispute that, Chief Minister. Is there even a chance that under your present laws with respect to immigration and your electoral laws here, that the assembly could be taken over by a group of people rather than a more homogenous group of people? What I am saying is there one ethnic or one country group of people, or people from one country that could take it over, or are you quite happy with your present legislation that prevents something of that nature happening to Norfolk Island, to the government?

Mr R. Nobbs—From a legal perspective I do not know. We have a lawyer on my right and very experienced politician on my left. As far as I am concerned under the present arrangements I do not agree that this would occur. But I have some real concerns with a proposal put from the Australian government, I can tell you that.

Mr Cook—Mr Chairman, if I could answer that. I suppose everything is possible in human affairs but it is highly unlikely. One of the reasons that makes it highly unlikely is that if any such persons came into the community who did not really have the interests of Norfolk Island at heart or by reason of residency or birth here and so forth, then they would have to wait quite a considerable time, as we well know, and demonstrate their assimilation into the community. There would have been, in that time, the opportunity for the community to become well aware of those person and whether they felt they could trust them with government.

CHAIRMAN—So you think their intentions are honourable.

Mr Cook—In six months one could hardly find that out, but in four or five years one has a fair chance of knowing who you are going to put into government.

CHAIRMAN—The road to hell is paved with good intentions I am told.

Mr Cook—Yes.

Mr Buffett—Mr Chairman, Norfolk Island really has a significant history of being at the side and being with Australia in areas when—

CHAIRMAN—You mean the mainland, I think.

Mr Buffett—You are at liberty to use the term you are comfortable with, Mr Chairman. The example that I might give you, which has already been mentioned by the chief minister in a number of conflicts—two World Wars, for example—is that Norfolk Island people have been to the forefront, as far as the numerical situation of its community is concerned, in being with Australia in those conflicts. To try and imply that Norfolk Island's community, which has that sort of association and history, would somehow become subversive, is quite a slight upon the

Norfolk Island community. What I am trying to say to you is that that association, being part of the culture of this place, is what we are endeavouring to protect and is what we are trying to explain to you exists and what we are trying to explain to you deserves protection.

If, in fact, a number of other issues start to dilute it, that is when you may have the introduction of some subversive elements. But to protect what we have now gives you, the Australian community, greater protection than you might have if you wanted to do what these proposals might pursue. I think it is important to just repeat that little historical bit and put it into context of the question that you are asking of us now.

CHAIRMAN—Yes, I am well aware of that. I am an ex-serviceman myself so I am very conscious of the high percentage of people that enrolled from Norfolk Island in both those conflicts.

Mr R. Nobbs—You talk about the ‘mainland,’ but from the Norfolk Island perspective mainlanders are people that come from New Zealand, Australia, Great Britain—they are outsiders from the larger metropolis. That is what a ‘mainlander’ is. I find it difficult when we talk about the ‘mainland’ to talk about Australia, because we are not Tasmania, we are Norfolk Island. I have grown up with the fact that a mainlander is an outsider. My mother was a mainlander, she was from Australia. I had aunts that came from New Zealand.

CHAIRMAN—Would you acknowledge that there are people who are descended from Pitcairners that have lived in a genetic sense, if you like, on Norfolk Island as long as perhaps anyone that has been here, that are not uncomfortable with calling themselves Australians?

Mr R. Nobbs—Yes, you would find that. Chairman, if I had been good enough I would have loved to have played for Australia—cricket, football, anything you like—but I would have equally have loved to have obtained an all black jersey. That is the thing. We are flexible. We are on flexible time.

CHAIRMAN—But Australia is, too; we have a special relationship with New Zealand and the closer economic relations are only one of those relationships we have. It is a very close relationship and we do not see—if I could speak for people on the mainland—Norfolk Island as being anything but part of Australia, albeit with special rights and conditions and self-government that some of the other offshore territories or islands do not have.

Mr Cook—We have the guarantees of our tradition and culture, though.

CHAIRMAN—Yes, I think that is a worthy thing to preserve, Mr Cook. I am going to close this session and thank you very much. We have gone over time. Thank you very much gentlemen. Chief Minister, thank you for your time and Mr Cook and Mr Buffett, for appearing here this morning. I might, gentlemen, if there are any matters in which we might need additional information the secretary will write to you, such as those questions on notice. You will be sent a copy of the transcript of your evidence to which you can make editorial corrections. The Hansard reporter may wish to clarify some details with you before you leave. I thank you again.

[10.54 a.m.]

NOBBS, Mr Kenneth, Vice-President, Society of Pitcairn Descendants

SNELL, Mr Lisle, President, Society of Pitcairn Descendants

CHAIRMAN—Although the committee does not require witnesses to give evidence under oath, you should understand that these hearings are legal proceedings of parliament and warrant the same respect as proceedings of the parliament itself. Giving false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. Are there any corrections or amendments you would like to make to your submissions?

Mr Snell—No, none at all.

CHAIRMAN—The committee prefers that evidence be taken in public, but if you wish to give confidential evidence to the committee you may request that the hearings be held in camera and the committee will consider your particular request. Before we ask some questions, do you wish to make an opening statement?

Mr Snell—Yes, I would, Mr Chairman, thank you. It re-enhances the submission placed before the committee under my name on behalf of the Society of the Pitcairn Descendants. I wish to state that I was a member of the seventh, eighth and ninth Norfolk Island Council which instigated a lot of the debate that has transpired since 1979. I was also, for a short period, a member of the first Norfolk Island Legislative Assembly.

After the 1975 royal commission into matters relating to Norfolk Island I thought, obviously, we had put behind us the constitutional arguments we have suffered with such a long succession of Australian federal governments. Regrettably, alas, here we are again at another inquiry. As to the affairs of the government of Norfolk Island, in 1979 the then Minister for Home Affairs, the Hon. R.J. Ellicott QC, MP stated categorically and I quote, if I may—

CHAIRMAN—You are quoting from what, Mr Snell?

Mr Snell—The speech by the said minister at the time in 1979 in the inauguration of the Legislative Assembly:

May I say at the outset that the government recognises the special situation of Norfolk Island, including the special relationship of the Pitcairn descendants with the island, its traditions and culture. It is prepared, over a period, to move towards a substantial measure of self-government for the island. It is also of the view that, although Norfolk Island is part of Australia and will remain so, this does not require Norfolk Island to be regulated by the same laws as regulate other parts of Australia. One of the main recommendations of the report of Sir John Nimmo on Norfolk Island was that, except in special cases, all laws which apply to other parts of Australia generally should also apply to Norfolk Island. Having considered all relevant matters, the government has decided not to accept this recommendation but to allow the present situation to continue, which laws of the Australian parliament only apply to this island if special provision is made in the particular law.

Mr Chairman, we place great trust and faith in the statement by the minister at that time.

In the submission presented under my name by the society we touched upon Norfolk Island's constitutional position with Australia. We stated facts which to us confirm Norfolk Island is not an integral part of Australia but is legally a dependent territory of the Commonwealth of Australia. This fact has been ratified many times, including and within the last five years by the Foreign and Commonwealth Office of Her Majesty's British government. It is the opinion of the society that the Honourable. R.J. Ellicott QC, MP recognised Norfolk Island's unique relationship with Australia and endeavoured to protect the fragile nature of this community as much as his terms of reference at that time would allow.

The question of democracy has been raised many times and we feel that the inquiry lacks some form of democracy to peoples living on this island. It appears on some occasions that it may be a personal attack against the indigenous peoples of Norfolk Island and nationalities other than Australians, who choose to live here. Take, for example, Mr George Smith MLA, who is of Pitcairn descent and a long time resident of Norfolk Island. Why should he be debarred from politics in his homeland because he carries a New Zealand passport? Why should an Australian who has lived in Norfolk Island—to use a local phrase which we commonly use here—for five minutes, be entitled to usurp his seat in our local parliament? Why should only Australians be permitted to vote for our local parliament?

Minister Macdonald stated on a radio interview that non-Australians already on Norfolk Island's electoral roll would be allowed to remain on the roll, though not stand for our local parliament. He quoted such words—and I regret to state them but they are factual—'anyone that is currently'—and he used 'that' and not 'who'—'on the roll will be quarantined'. We find that rather extraordinary. May I be permitted to ask what kind of democracy is being advocated there?

Norfolk Island is a dependent territory under the authority of the Commonwealth of Australia, not a part of the Commonwealth itself. It has never been ceded to nor annexed by the Commonwealth of Australia. It is not right that decisions enormously affecting the future of Norfolk Island be taken by bodies or persons who do not normally live here, let alone regard it as their homeland. Norfolk Island is our homeland—the people of Pitcairn descent. We have hung on here through 145 years of outside interference, patronisation, deprivation of our right to govern ourselves, denial of referendum and the gradual erosion of our language, customs, traditions and culture.

Mr Chairman, we sincerely hope that you will acknowledge our position and our opposition to the proposed changes to the electoral procedures on Norfolk Island and advise the Senate accordingly. Thank you very much.

Mr K. Nobbs—Mr Chairman, I can only agree with the words of Lisle Snell but I would like to quote from a speech by Mr J.W. Haslem MP in the Supply Bill (No. 1) 1977-78. It said:

I feel that they would be better left outside the Australian political scene. It should not be beyond the ingenuity of this government, and the bureaucracy which supports it, to find a mechanism by which the people of Norfolk Island can have more democracy and more say in their own affairs, and not be made part of Australia.

That sums up what I have to say in this regard, sir.

Ms ELLIS—Mr Snell, can you go back to the comments you made a moment ago and correct me, please, because I am not sure whether you were quoting them or saying them yourself. It was, ‘Why should someone with a New Zealand passport’—tell me how you see the difference between New Zealand passport holders and Australians here? Is there a difference there to your mind?

Mr Snell—Certainly. They are a citizenship of a different country, obviously.

Ms ELLIS—Are you putting them both in the same category?

Mr Snell—In what respect?

Ms ELLIS—It is not New Zealand versus Australia here.

Mr Snell—Certainly not.

Ms ELLIS—I am not criticising what you were saying. I just wanted you to clarify for me what you were saying.

Mr Snell—Sure. If they are a resident of Norfolk Island then we accept them as such. They have earned their residency here and they are treated with the upmost respect and the courtesy to be able to stand for our elections as a citizen of Norfolk Island.

Ms ELLIS—Once they have come through that gateway?

Mr Snell—Once they pass that residency criteria.

Ms ELLIS—Are you in a position to tell the committee how many people living permanently on Norfolk Island can correctly claim Pitcairn descendancy?

Mr Snell—Yes. On the last census count it would have been around 43 per cent. There are approximately 700 persons here of Pitcairn Island lineage living on Norfolk Island.

Ms ELLIS—Do any of those people in the 43 per cent have ascendancy over any other residents here, or do you see that once people become Norfolk Island residents they are all one and the same?

Mr Snell—That is a very leading statement, a very leading question. Of course everyone is different. There are some who are very proud of their heritage here, like an Australian is very proud of the Australian heritage. Norfolk Islanders tend to be the same, under the same cap, but we try not to be discriminatory against others who live on the island. But I cannot speak for everybody.

Ms ELLIS—It would be like saying an original versus—we have that in Australia. We have a huge debate in Australia about that, so it is very similar.

Mr Snell—Yes, we follow that with great interest. We think we are a multicultural society here and we treat with respect those who decide to live on Norfolk Island. I do not think there is any racial discrimination against any other person.

Ms ELLIS—No, I was not suggesting that for a moment. Please do not think I was suggesting that. I was not.

Senator WEST—You were saying they are proud to be Pitcairners. You do not think there are any members of your society that hold a view different to yours?

Mr Snell—Most certainly, yes. The Society of the Pitcairn Descendants does not speak for every person of Pitcairn lineage here on Norfolk Island. There are some who believe that Norfolk Island should be an integral part of Australia, for personal reasons, but we claim that the majority of our society and anyone of Pitcairn Island lineage is entitled to be a member of our society. We believe the vast majority would support the unique situation we share with Australia to this day.

Senator WEST—How many members of your society are there that are not resident on the island?

Mr Snell—All members of the society must be resident on Norfolk Island.

Senator WEST—So you cannot be a member of the Pitcairn society.

Mr Snell—No.

Senator WEST—Is there an association or some organisation they can belong to when they are off the island?

Mr Snell—Most certainly, yes. We have another association called the Association of Norfolk Islanders, which in its own right also promotes the understanding that the Norfolk Islanders are the indigenous peoples of Norfolk Island. In that regard, of course, others living overseas can, if they wish, be a member, and so on.

Senator WEST—You have just Norfolk Islanders are the indigenous people of Norfolk Island. How are you going to define a Norfolk Islander if you are not living on the island?

Mr Snell—The Norfolk Islanders are people of Pitcairn Island lineage. The indigenous peoples of Pitcairn Island transferred to Norfolk Island, as you are well aware, in 1856 and created the first indigenous population of Norfolk Island. All other populations that have been here before, including the Polynesians and the British populations were all transients. No permanent population lasted here. It is not difficult to explain and categorise the word 'indigenous'.

Senator WEST—So the Norfolk Islanders you are referring to as the members of the Norfolk Island Association are actually Pitcairners who are from the island?

Mr Snell—Yes, they are on the island.

Senator WEST—I do not know whether you were here before and heard me ask questions about dual citizenship. Is there a problem with having dual citizenship?

Mr Snell—Yes, there is. It has, of course, been highlighted in a recent legal case in Australia and I did refer to it in the submission. It is *Sue v. Hill*.

Senator WEST—That is the ability to stand for parliament. Apart from that, are there any other problems with dual citizenship?

Mr Snell—We do not envisage any here, no. If a person has the right to retain dual citizenship, so be it, providing of course if they stand for the parliament of Norfolk Island there are certain safeguards within the Norfolk Island Act. They have to show true allegiance to Norfolk Island.

Senator WEST—Have you formally canvassed with your members any of these issues?

Mr Snell—Yes, we have.

Senator WEST—Including the dual citizenship issue.

Mr Snell—No, not dual citizenship. That was not a major issue.

Senator WEST—Is not a major issue. Because the length of time somebody has to be here is equivalent to that which would make them eligible for Australian citizenship. If you take out the *Sue v. Hill* issue, the Cleary issue and the Woods issue—

Mr Snell—There have been quite a number of cases.

Senator WEST—Yes, there have, in the last 20 years. There is not a problem. Do you have any idea about the number of Pitcairn descendants who would need dual citizenship or would be prepared to have it? How many of your members have New Zealand citizenship rather than Australian citizenship?

Mr Snell—It is not a great deal, but it is one that has befallen them due to the circumstances of their family and so on. They, of course, quite rightly, are proud to retain their birth of citizenship, whether it be New Zealand, American, British or whatever. Of course we have Pitcairn Islanders living here who are, of course, British subjects, Pitcairn Island being one of the last few Crown colonies. But we do not expect them to have to relinquish British citizenship or New Zealand citizenship and be a citizen of Norfolk Island at the same time, yet they are still welcome and, of course, they are still part of our Pitcairn Island lineage.

Senator WEST—The dual citizenship issue is not a big issue for you?

Mr Snell—No, we do not see it as such. I am only speaking on behalf of myself. It would have to be up to the society to make a firm recommendation on that. It is something we could take on board, if you don't mind.

Ms ELLIS—How many members do you have in your society?

Mr Snell—We do not have account of members in our society. We have of course a properly constituted society and all meetings are held in accordance with a proper constitution, but anyone who is of Pitcairn Island lineage is entitled to come to the meetings when called.

Ms ELLIS—I guess I was just trying to get a feel of the 43 per cent or 700 approximately.

Mr Snell—When called upon, the Norfolk Islanders rally in times of need, in times of special situations, such as this. We could have as many as 150 to 200, or we could have as few as 12, 13, but enough to make a quorum. It varies.

Ms ELLIS—But you do not have a membership per se?

Mr Snell—We do not have a membership, no. We do not have a certificate to say, 'You are a member of the Society of the Pitcairn Descendants,' no.

Senator WEST—How do you check those who are eligible actually are? I know there are Nobbs and there are Buffetts and there is a whole stack of names around that you would assume were but—

Mr Snell—The applicant to the society must be able to provide birthright and lineage information that would make him eligible to be a member of the society. That is the only criteria.

Senator WEST—And I presume 'her' as well?

Mr Snell—Yes, of course. Anyone.

CHAIRMAN—Mr Snell, your society no doubt keeps a tab on who enters parliament, who enters the Legislative Assembly here. Have you any idea of the composition of the assembly with respect to Pitcairners and non-Pitcairners, if I could put it that way?

Mr Snell—Yes, I do.

CHAIRMAN—How many are there?

Mr Snell—The persons of Pitcairn Island descent number three—that is, Mr George Smith, Mr Ron Nobbs, Mr David Buffett.

CHAIRMAN—Out of how many?

Mr Snell—Out of nine. Mr George Smith, of course, is a New Zealand citizen but he is of Pitcairn Island lineage here. Then you have a New Zealander twice and, of course, Australians there as well.

CHAIRMAN—If I am correct you have three Pitcairners, you have three from New Zealand—

Mr Snell—I beg your pardon. I have just been corrected. We have four of Pitcairn Island descendants in the assembly. We have John McCoy.

CHAIRMAN—And two from New Zealand.

Mr Snell—Yes.

CHAIRMAN—And the balance Australian born?

Mr Snell—Yes.

CHAIRMAN—That makes up the ethnic or country composition, does it?

Mr Snell—Yes.

CHAIRMAN—Does that concern you?

Mr Snell—No, not at all.

CHAIRMAN—Are you happy with that figure?

Mr Snell—I am happy with that.

CHAIRMAN—Do you lobby for the assembly to elect Pitcairners?

Mr Snell—Certainly. We would much prefer to see people of Pitcairn Island lineage in our assembly but we are democratic thinking people. In the first instances when the council of elders was elected on Pitcairn Island and when Governor Denison gave them the authority to govern their own affairs here on Norfolk Island, the first government was criticised as being a petticoat government because the people at that time allowed the first female votes. The structure of the first government on Norfolk Islands did not make any provisions for other nationalities. Anyone was entitled—and it has been so—Americans have been part of the government of Norfolk Island in the early days, historically, British and German and so on.

CHAIRMAN—When did you refer to your descendants, the Pitcairners, as indigenous to Norfolk Island?

Mr Snell—It started in the time of some of the inquiries into Norfolk Island when it was feared that Norfolk Island would be assimilated or totally integrated within Australia. We started to make inquiries through the United Nations, of course. I have been a member of the

working group on indigenous populations now for several years. I have attended conferences in Geneva with the United Nations to establish a factual situation which would apply to Norfolk Island. It has been proven to us and we have been accepted at the United Nations as an indigenous peoples of Norfolk Island, probably about 1995.

CHAIRMAN—You have been referred to as an indigenous people. What of the Human Rights and Equal Opportunity Commission's finding in March 1999 under the Norfolk Island Immigration Act and Human Rights, where it conducted its own inquiry? It referred to, on pages 47 and 48 of that report from the Human Rights and Equal Opportunity Commission—I will read it. In *Territory limits*, this booklet here—

The commission rejected claims made by and on behalf of Norfolk Islanders that they were indigenous and/or that they are a distinct peoples. They say, 'The object of this claim was to qualify for the right of self-determination of people set out in article I of that respective covenant.' Are you in disagreement with that?

Mr Snell—I know the point you are making, of course, in Article I of the International Covenant on Civil and Political Rights. When the Commonwealth of Australia was asked why it had not applied the International Covenant on Civil and Political Rights to Norfolk Island, it gave the following answer:

You should be aware that the Consensus Declaration of the World Conference on Human Rights held in Vienna in 1993, which Australia supported, states in Part 1, paragraph 2 that Article I of the ICCPR shall not be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principles of human rights and self-determination of peoples and thus possessed of a government representing the whole people belonging to the territory without distinction of any kind.

Then, of course, it goes further:

If this is to be interpreted as the Commonwealth's tortuous way of saying that Norfolk Island is a part of the Commonwealth, and that therefore to offer its people self-determination would be to dismember and impair itself, then the Commonwealth is ignoring its own Constitution—and the fact that the people of Norfolk Island are not required to vote in Commonwealth elections.

As the Commonwealth's own Constitution makes it very clear that Norfolk is not part of it, applying Part 1, Article I of the ICCPR, Norfolk Island cannot 'dismember or impair, totally or in part, the territorial integrity or political unity of the Commonwealth of Australia.

CHAIRMAN—But with respect, Mr Snell, that is not saying they agree that Pitcairners are indigenous to this island.

Mr Snell—The Australian government has never agreed with that.

CHAIRMAN—It is not just the Australian government, it is the Human Rights and Equal Opportunity Commission as well.

Mr Snell—I would need to be able to take the question on notice because there are, of course, areas of argument that I would like to be able to respond to.

CHAIRMAN—Yes, of course. I have no problem with ‘as a distinct people’, I just have a problem with the term ‘indigenous people’. That is what I have a problem with. In fact the commission did concede that Norfolk Islanders, or at least those people of Pitcairn descent, were—if I could quote—‘probably constitute a cultural or ethnic minority’, for the purposes of article XXVII of that same covenant.

Mr Ellicott said in his speech—I learnt this this morning—at the time of self-government, ‘Norfolk Island is part of Australia.’ I think it was as simple as that. There was nothing ambiguous about that. What is your comment with respect to that?

Mr Snell—Yes. We accepted that under sufferance at the time. It was better to accept it with the provisions that Minister Ellicott was offering us at the time. It was a step forward in the right direction. Consequently more information and more factual evidence has come forward on the unique political situation of Norfolk Island dating back historically. It was referred to by the government this morning. There are constitutional papers regarding the status of Norfolk Island in domestic law and so forth. All these are being looked at. It is contentious, there is no doubt about that.

CHAIRMAN—What is your ultimate goal with respect to the society for whom you speak? Is it for full and total independence from the Commonwealth?

Mr Snell—No.

CHAIRMAN—What is your ultimate goal, not your penultimate goal?

Mr Snell—The ultimate goal is that Norfolk Island governs itself in free association with Australia, in a similar fashion as areas in other parts of the Pacific, such as the Cook Islands vis-a-vis New Zealand and, of course, in a broader sense the situation—

CHAIRMAN—You do not mean constitutionally similar to the Cook Islands, do you?

Mr Snell—No. But Norfolk Island has, and had historically, a very strong association with Australia. There are, of course, people of Pitcairn Island lineage who would like to see that continue. I think it is in the best interests of the island that it continue. But what we are striving to retain here on Norfolk Island is our own form of internal self-government.

CHAIRMAN—So you want more devolvement of power from the Commonwealth to the assembly here?

Mr Snell—Yes, we do.

CHAIRMAN—Do you see an expansion of the assembly in numbers?

Mr Snell—Not necessarily, no.

CHAIRMAN—It is a very low ratio of electors to assemblymen, isn't it?

Mr Snell—When you consider that the permanent population of Norfolk Island is 1,457, the nine ratio to us is not a bad calculation or division. At the time of formulating number nine, the numbers five and seven were also suggested as a working formula for the assembly of Norfolk Island. There is a feeling even today that the number may or should be reduced to seven. Speaking personally, I do not see any real opposition to that at this time because the progress of internal self-government for this island is continuing. It is reaching a stage where surely more powers can be conferred because of the experience it has already gained in the 22 years.

CHAIRMAN—What sorts of powers would you like further devolved to Norfolk Island?

Mr Snell—We would like the removal of the veto powers by the minister on such things as immigration; we would like to see better control over our lands—that, of course, has been in the pipeline now and hopefully that will resolve itself shortly.

CHAIRMAN—Could you explain that a little bit more, please, Mr Snell?

Mr Snell—The Australian government have agreed to transfer the powers over land here on Norfolk Island. For example, they are considering transfers from leasehold to freehold. The subdivisions and allocations of land can also be handled from within the government rather than by the respective department in Canberra and so on—matters of that nature.

CHAIRMAN—Not the crown lands.

Mr Snell—Not the crown lands, no.

CHAIRMAN—You are quite happy with the way that they are being administered?

Mr Snell—Yes. We have a very good arrangement with such things as the Kingston and Arthursvale Historical Area Management Committee. We have an amicable association and relationship with Parks Australia for the administering of national parks, in the understanding, I hope, that it is always considered to be Norfolk Island's national park, et cetera. But they do a great job for us in management principles and, of course, funding. Those things are appreciated.

CHAIRMAN—Yes, they are. With respect to immigration, does your concept involve the issuing of Norfolk Island passports exclusive to Norfolk Island?

Mr Snell—Yes, it is a very interesting question and one that we would love to see happen, but its acceptance internationally is a huge question mark—the freedom of movement through various countries. I say it is not impossible to arrange but in association with Australia it, of course, would be much easier. Certainly the society would welcome the issue of a Norfolk Island passport.

CHAIRMAN—How universal is that on the island?

Mr Snell—Certainly within the society it would be 100 per cent. Universally within the island would have to be by referendum. I could not speak on behalf of other residents.

CHAIRMAN—No, I meant within your society. What other issues do you think should be transferred in terms of political power from the Commonwealth to Norfolk Island, other than immigration and lands?

Mr Snell—I would have to refer to schedule 2, Powers of the Norfolk Island Act, which I regrettably do not have with me at present. The whole crux of the question is that any matters pertaining to Norfolk Island should be governed by the island itself.

CHAIRMAN—Health, education, housing?

Mr Snell—The whole works, yes. The gambit of all legislative powers within the island should be the island's responsibility.

CHAIRMAN—It might be better if I put the question this way, Mr Snell: what powers do you think the Commonwealth should retain with respect to Norfolk Island?

Mr Snell—It has always been understood that foreign affairs and defence is to be administered by Australia.

CHAIRMAN—They are very expensive, are they not?

Mr Snell—Yes. Also, Norfolk Island of course would like to see the retention of its own 200 mile economic zone around the island. That is very important for us. I know at the present time arrangements are being made with the Australian government for a protective box around the island. Norfolk Islanders fish in our own waters under a concession. Such things as that should be not a part of an Australian authority to administer. Those things should be governed by ourselves here.

CHAIRMAN—Are you saying that the exclusive economic zone around the island should be administered entirely by the Norfolk Island government?

Mr Snell—In association with Australia, yes. I think we should have more powers in those matters, yes, more authority. That of course comes under schedule 3 of the act. I see fishing, customs, immigration, education. Schedule 2 matters are covered by the government but schedule 3 matters are the ones.

CHAIRMAN—If you had your housing, health and education—and we agree they are essential to any progressive society—could the island manage those under its own particular income stream?

Mr Snell—We have been doing so, yes. It has been suggested that Norfolk Island's taxation system needs to be reviewed for its revenue raising. It has been generally stated that Norfolk Island has probably exhausted all the indirect forms of taxation that are available to us. It is with some disappointment that the society notes some impositions of taxation here can be avoided. I speak of course of the FIL charges. I think the government needs to look at some fair and equitable form of internal taxation system if we were to be given more powers under the act. We would need to look very closely at our revenue raising sources.

CHAIRMAN—For instance, would you need a tertiary institute here other than Greenwich University? Would you need something manifestly—

Mr Snell—No.

CHAIRMAN—a tertiary institute.

Mr Snell—No. Under the current education system of Norfolk Island those who show promise can be encouraged and subsidised to obtain their tertiary degrees elsewhere. We feel that system would be far cheaper than trying to establish our own tertiary establishment on the island.

CHAIRMAN—What is the preferred ‘elsewhere’?

Mr Snell—Depending on family ties. There are many that have graduated to professional status not only just in Australia but also in New Zealand. Others have gone to foreign countries such as India and Japan and have made names for themselves—in Hong Kong, Great Britain and so on—and have gained valuable experiences in those places.

CHAIRMAN—What of the lobbying effect, if any, that your society has on the assembly? Do you have a relationship that allows you to lobby the assembly people for legislation that slants your way?

Mr Snell—Yes, most certainly.

CHAIRMAN—Is that an integral part of your—

Mr Snell—One of the great benefits of Norfolk Island’s political system is that every member of the legislative assembly is freely available and it is to their benefit and certainly to ours that they are easily accessible to us and we can lobby them in any particular manner at any time without—

CHAIRMAN—They are not going to be ever any further than eight kilometres away generally speaking.

Mr Snell—Exactly.

CHAIRMAN—Do you use that with some effect? Are you happy with the relationship you have with the assembly?

Mr Snell—Yes, most certainly. Yes, we do.

Senator WEST—You mentioned the veto issue.

Mr Snell—Yes.

Senator WEST—The power of veto. Has that ever been used?

Mr Snell—Yes.

Senator WEST—When?

Mr Snell—Particularly in immigration.

Senator WEST—Apart from immigration, when else? Immigration, of course, being a schedule 3 matter, what about schedule 2 matters? Has it ever been used on a schedule 2 matter?

Mr Snell—Yes. Some of the powers imposed by the Australian government—for example, the rejection of the rights to referendum is one. Probably the most strong—and I am trying to think of others—

Senator WEST—Maybe you would like to take it on notice. Has the veto power ever been used on a schedule 2 matter? I am conscious of time running out so I am quite happy for you to take that on notice and advise the secretariat. It is the schedule 2 matters that I am interested in. Has the power of veto ever been used on a schedule 2 matter? If so, when and in what circumstances?

Mr Snell—We would have to take that on notice, Senator.

Senator WEST—That is fine. Do you think that currently you are financial, in that the income to the local assembly is adequate to cover all of the needs of the island?

Mr Snell—At its present state and in its present situation of government, yes.

Senator WEST—Can I just make the comment that I thought your aged care facilities were somewhat lacking. That is as a former registered nurse.

Mr Snell—Just to relate a little to that, when aged pensions and the aged care situation was discussed prior to 1979, the reliance on family involvement was very great at that time. Norfolk Islanders are very proud to support their own. In the intervening years afterwards, of course, there have been many that have come to Norfolk Island without that family involvement and we do not discriminate against them at all. We try to provide them with care such as nursing care at the hospital and of course visiting nurses around to their places of residence and so on. But as for the areas of retirement villages and things like that, it is certainly something that has been discussed by several assemblies and so on.

Senator WEST—I will leave it there, thank you.

CHAIRMAN—We do not have any further questions. I thank you both for your contribution this morning. If there were any other matters on which you might need additional information the secretary will write to you. You will be sent a copy of the transcript of your evidence to which you can make editorial corrections. The Hansard reporter may wish to clarify some details with you before you leave. I thank you, Mr Nobbs and you, Mr Snell, once again for your contributions.

[11.34 a.m.]

McCOY, Mr Alan John (Private capacity)

CHAIRMAN—I now welcome Mr John McCoy MLA. Although the committee does not require a witness to give evidence under oath, you should understand that these hearings are legal proceedings of parliament and warrant the same respect as proceedings of the parliament itself. Giving false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The committee prefers that evidence be taken in public, but if you wish to give confidential evidence to the committee you may request that the hearings be held in camera and the committee will consider your particular request.

Mr McCoy—I am, firstly, a Norfolk Islander as my ancestors have all been of Pitcairn descent; secondly, I am a member of the Legislative Assembly of Norfolk Island and appear here before you as an individual member of the Norfolk Island community to provide evidence to the inquiry into Norfolk Island's electoral matters.

CHAIRMAN—Before we ask you some questions, do you want to make an opening statement?

Mr McCoy—Yes, I do have a statement to make. I am addressing the terms of reference of the inquiry. They are set out as (a) a requirement of Australian citizenship as an additional qualification for future enrolment on the island's electoral roll; (b) a requirement of Australian citizenship as an additional qualification for election to the Legislative Assembly and hence the holding of an executive office within the Norfolk Island government, and to make the residence period for eligibility for enrolment consistent with periods in Australia.

The Norfolk Island community has a distinctly different historical and cultural basis than the Commonwealth of Australia, notwithstanding the undeniable fact that there are historical connections between Australia and Norfolk Island. The people who make up the Norfolk Island community come from all walks of life, stemming from many different countries and cultures, that being worldwide, which was also the case on Pitcairn Island prior to the Pitcairners' emigration to Norfolk Island. It can be argued that part of the Norfolk Island culture has been the acceptance and welcoming of people from all nations—people who appreciate and wish to contribute to our ways and culture; people who are quite content to live under our laws and decisions until such a time that they too can become involved in the decision-making process.

The Pitcairn community—which the majority of Norfolk Island residents have direct lineage to—was founded by a group of individuals who came from two very different and diverse cultures, some being of United Kingdom stock and the others being of Tahitian stock. This was the first time in modern history where two cultures amalgamated to develop into one distinctly different and unique culture. This culture fostered on Pitcairn Island for 18 years without any influence other than that of the Bible. The Bible laid down the foundations for the development of laws and conditions that would guide the Pitcairn Islanders for many years to come.

Upon its discovery the Pitcairn community was soon joined by newcomers who were welcomed with open arms by the Pitcairn people, even to the point where newcomers were looked to for guidance and leadership. For leadership and choosing leaders on Pitcairn Island the Pitcairners practised democratic principles that were yet to be founded in the modern world—that is, giving everyone the right to vote and representation in the decision-making process. They were the first to give females the right to vote for their representatives. In 1856 the whole of the Pitcairn community emigrated to Norfolk Island and brought with them their laws, religion and culture.

During the passage of legislative development in Norfolk Island the laws regarding electoral right and eligibility to vote for or be elected to the Legislative Assembly and the council in the early days, have developed through input and involvement by the community. That process has allowed—no matter what creed or colour—everyone who has demonstrated a long-term desire by residing on Norfolk Island, an acceptance of the uniqueness of island life and gaining residential or normal residential status, the right to be involved at assembly level in the legislative process. That right should not be denied through a process of demanding that one should forgo their citizenship, through birth in another place, for an Australian citizenship to represent the community they wish to be part of, that being the Norfolk Island community in this instance.

It is highly undemocratic for the Australian government to demand Australian citizenship as a prerequisite for membership to the Legislative Assembly. It would not only disenfranchise residents who are from countries such as New Zealand, it would also disenfranchise people of Pitcairn Island lineage, of whom the Norfolk Island Act 1979 states, ‘And whereas the parliament recognises the special relationship of the said descendants with Norfolk Island and the desire to preserve their traditions and culture.’

The people I am referring to are people who are of Pitcairn lineage who may be born elsewhere other than Norfolk Island or Australia. It is unpalatable for the Commonwealth of Australia to turn around, disregard the basis and constitutional significance of the Norfolk Island Act by forcing Pitcairn Island descendants born elsewhere, other than Australia, to relinquish their citizenship of birthplace for Australian citizenship to qualify for membership of their assembly.

The Minister for External Territories and others in the Australian Commonwealth government should not lose sight of the fact that Norfolk Island is a separate external territory of the Crown in right of the Commonwealth of Australia. Constitutionally it is not an internal territory and thus not an integral part of the Commonwealth of Australia. Therefore, the prerequisite of Australian citizenship to hold an executive office or membership in the Legislative Assembly of Norfolk Island cannot be validated or justified. It is therefore invalid that the residence period for eligibility for enrolment be consistent with periods in Australia.

As I have already indicated, constitutionally Norfolk Island is not an internal territory of the Commonwealth of Australia. Forcing eligibility for enrolment to be consistent with periods in Australia will arguably mean that persons would only require six months of ordinary residence status in Norfolk Island to gain the right for enrolment. This is somewhat preposterous when taking into account the Norfolk Island scene or situation.

Quite clearly, as pointed out by the Commonwealth Grants Commission, Norfolk has a highly transitional population and because of Norfolk's reliance on the tourism industry as our base industry, we have many who come to Norfolk Island on a temporary basis. They have no desire to remain indefinitely, nor do they wish to be involved in the political arena on Norfolk Island. The question must be asked as to whether these people understand the fragility of Norfolk Island's environment—political or economical environment—and what may influence them when casting their vote. Quite clearly, any person or persons employed on Norfolk Island on a short-term basis and qualify for enrolment, if the qualification period is only six months, may quite seriously and more than likely be influenced to cast a vote through lobbying by their employer and by no other means or for no other reason.

Also, there is a ridiculous scenario one could envisage, that if the six-month period is all an Australian citizen needs to be able to take part in a referendum or enrol on Norfolk Island, in the case of a referendum which may seek to have Norfolk Island encompassed in an Australian electorate, we could quite seriously take the view to achieve that simply the Commonwealth would need to station military forces on Norfolk Island for a period of 12 months. After six months they would all have the right to enrol. That could sway the outcome quite dramatically of any referendum we may have on an issue such as becoming part of an Australian electorate. We have seen that happen elsewhere in the world.

It is undeniable that the right for enrolment should be matched with a period of residence on Norfolk Island and that should be quite a substantial period. There is also the right to decide how our electoral issues should be determined or progress in the future. That right should remain democratically with the people of the island. I am sure that in your short visit here you will appreciate that Norfolk Island not only has a very fragile economy but also a political and environmental atmosphere.

Before I finish my statement I will read briefly for you some extracts from the history of voting on Norfolk Island. You may have already heard this; it is similar to what I have already outlined. It states:

In Pitcairn, the Islanders date their formal incorporation into the British Empire from 30 November 1838 when they prevailed upon Captain Elliott of HMAS Fly to draw up a brief constitution and a code of laws selected from those already in force. A Magistrate, who must be native born, was to be elected annually "by the free votes of every native born on the island, male or female, who shall have attained the age of eighteen years; or of persons who shall have resided five years on the island." He was to be assisted by a Council of two members, one elected and one chosen.

Captain Arthur Phillip's Commission in 1787 had made him Governor of the colony of New South Wales including Norfolk Island which was subsequently settled as a penal colony. In 1844 Norfolk Island was annexed to the Government of Van Diemens Land in the diocese of Tasmania and, by order of the Queen-in-Council in 1856, Norfolk Island was declared to be a distinct and separate settlement with the Governor and Commander-in-Chief of New South Wales being constituted as to the Governor of Norfolk Island. In June of that same year the tiny community of Pitcairn arrived in Norfolk Island to establish their new colony.

In 1857, after settling into Norfolk Island, the Governor of Norfolk Island, Sir William Denison, after communicating with leading citizens, formulated the Island's first set of laws which included the provision that, during the absence of the Governor, executive government of the Island was to be vested in a Chief Magistrate and two Councillors to be elected annually by the community. It was required that the Chief Magistrate be a resident in possession of landed estate and to be at least twenty-eight years of age. The two Councillors were also required to be residents and to have attained the age of twenty-five. Every person who had resided on the Island for six months, who had attained the age of twenty years and who could read and write was entitled to vote.

In 1885, Special Commissioner Henry Wilkinson prepared a lengthy report for the then Governor of Norfolk Island, Lord Loftus, which resulted in the earlier laws by Denison being repealed and replaced by Lord Loftus' Proclamation of 1885 which also dealt with electoral matters.

Under this Proclamation the Chief Magistrate now had to be a person resident in Norfolk Island, be the owner in fee simple of landed estate and have attained the age of forty years. Provision was introduced for a system of balloted votes to elect persons to the positions of Chief Magistrate and Councillors. These elections were to take place on the day after Christmas Day each year. The Chief Magistrate was eligible to stand for re-election provided that he did not hold office for more than two years consecutively.

In 1896, Viscount Hampden, the Governor of Norfolk Island, issued a further Proclamation. The role of Chief Magistrate was enhanced by provision being made for a magistrates' court and the authority for him to summon a jury. A twelve-member Council of Elders was constituted. They would choose one of their number to be President who would preside at all meetings and have a casting vote only. The Council could make suggestions to the Chief Magistrate as to any changes in the laws and regulations at a meeting summoned and presided over by him on the receipt of a petition signed by twenty or more of the Elders.

Election to the Council was to be held on the first Tuesday of January in each year and on failure to elect any or all of the members of the Council of Elders the Chief Magistrate could appoint a sufficient number. Councillors were to be elders of the age of thirty years or upwards and the Chief Magistrate was to keep a register of the names of the males born or naturalised of the age of twenty-five years and upwards who had resided on the Island for the previous six months.

The same Proclamation, by the wording defining the elders as "names of the males natural born ..." disenfranchised women whose voting powers had been established by law some forty years previously.

In 1903 the Council of Elders was replaced by an Executive Council of six members, of whom four were nominated by the governor and were elected by all males over twenty-five years. Its powers and functions were much the same as those of the Council of Elders.

After Federation in 1901, Australia saw clearly that the Commonwealth was in a better position to control the affairs of Norfolk Island than was the State of New South Wales. Admiral Rawson, the Governor of New South Wales, requested the Imperial Government to annex Norfolk Island to the Commonwealth in accordance with the preamble to the 1897 Order-in-Council. At the same time he advised the Governor-General of his action, and asked the Commonwealth Government to accept the Island. In 1913 the Federal Parliament passed the Norfolk Island Act, accepting the Island as a Territory under the authority of the Commonwealth and providing for its future government. The Act came into operation 1 July 1914, and subsequently the women of Norfolk Island were again enfranchised. In 1960 Mrs L.C. Donkin, the first woman to be a Councillor on Norfolk, was elected to the Norfolk Island Advisory Council.

Under the Norfolk Island Act 1913 the offices of Administrator and Chief Magistrate continued to be combined, and the existing powers and functions were retained. The Executive Council was also retained but its composition was increased to twelve members. The council was to be elected annually. The law required that the Administrator attend the first meeting of each council and that such meeting should elect a member of the council to be president. Six members of the council were to be nominated by the Administrator and another six were to be elected.

CHAIRMAN—Sorry, Mr McCoy, do you have much longer to go? We can actually incorporate that into *Hansard* without you reading it.

Mr McCoy—That is fine. That may be a shorter way to get to the point, but the basic point of all that is that it appears we are going around in a circle if we intend making the six months period—

CHAIRMAN—We will ask for that to be incorporated into *Hansard* if there is no objection. There being no objection it is so ordered.

The document read as follows—

The Administrator would be an ex-officio member of the council and would preside at meetings at which he would have a deliberative as well as a casting vote.

The Executive Council Ordinance 1915—which replaced the Executive Council Law—was amended from time to time and remained in force. But by 1935 dissatisfaction in the community caused pressure to be applied to the Commonwealth in the form of petitions and letters. In Australia the Minister for External Affairs, Senator George Pearce, sought leave of the House to introduce a bill to amend the Norfolk Island Act 1913 which stated:

“... Six members of the council are nominated by the Administrator and another six are elected, and the Administrator has a deliberative as well as a casting vote.”

It was the undesirability of the Administrator having the power to nominate six of the twelve members to the Council that had caused the community to seek redress.

The 1935 Ordinance sought to remedy that state of affairs by abolition of the existing executive council and provision being made for a replacement body to be constituted as an advisory council consisting of eight elected members. The advisory council was to have the right to advise the Administrator and, through him, the Minister in relation to any matters affecting Norfolk Island. This would give the people a real voice in community matters.

The Island was to be divided into four wards with two men being elected from each ward. The candidate who topped the poll to be elected for two years, and the candidate with the next highest number of votes to be elected for one year.

On being asked by the Senate of the reason for having an annual election, Senator Pearce advised that the Administrator of Norfolk Island had told him that “... an election here costs only about ten pounds, and the people do love elections”.

Under the new arrangements the council would elect its own chairman annually, and in case of an equality of votes, the Administrator would appoint the Chairman. When it is proposed to make an ordinance, a draft of it would be sent to the Advisory Council, which would be invited to express its opinion upon it. That opinion would be sent with the report of the Administrator to the Minister, who would determine what action was to be taken. Provision was made for urgent or special ordinances.

The Administrator of the Island was also the Chief Magistrate and Senator Pearce gave his intention to separate the office of Administrator from that of magistrate, to make arrangements for a stipendiary magistrate to visit the island as required and to allow for the appointment of local residents as honorary justices of the peace with summary jurisdiction in minor cases.

A Proclamation by the Governor-General fixed the commencement date for the new Norfolk Island Act 1935 at 21 June 1935.

On the 27 July 1935 the Advisory Council Elections Regulations were posted within the Island. They divided the Island into four wards for the purposes of voting.

They were the Kingston, Cascade, Ball Bay and Mt Pitt Wards. The first election for the newly constituted Advisory Council took place on 21 August in that same year. The President and Deputy President of Council were chosen by lot.

The Norfolk Island Act 1957 commenced in 1960 and was updated in 1973. Neither Act nor amendment gave any further reference to the voting system.

CHAIRMAN—Would you like us to go to questions now, Mr McCoy? Do you have something else you wish to inform the committee on?

Mr McCoy—No, I am happy for you to move on to questions.

Ms ELLIS—Mr McCoy, forgive me if I get this a bit wrong, not the bit you were just reading but earlier on you said something about the imposition of the Australian qualifications period and so on being unfair to Norfolk Islanders and their descendants. From your knowledge can you explain to me how it works for second generation Norfolk Islanders, or third—let’s use the

term second generation. If someone is either born off the island of direct Pitcairn descent or is born on the island and leaves and comes back, what is the situation facing them in terms of qualifying for anything now? I do not know this and I would like you to tell me.

Mr McCoy—If the person has been back on Norfolk Island for 900 days in four years, they become eligible to enrol.

Ms ELLIS—So they have to requalify.

Mr McCoy—Yes. Even people who may be born on Norfolk Island, as you may have asked, who move off the island for a period of time and are away from Norfolk Island for a certain period of time—that disqualifies their eligibility to enrol and they will have to re-enrol upon returning to Norfolk Island—if they have been back here for 900 days in four years.

Ms ELLIS—What is the period they can be away before they are disqualified?

Mr McCoy—Off the top of my head I could not give you a correct answer.

Ms ELLIS—Could you find out and let us know.

Mr McCoy—Certainly.

Ms ELLIS—Maybe someone else can tell us at some point.

Senator WEST—What about if they are born here, go over to Australia at age 16 for a final couple of years of education and do a tertiary degree and live there and have children? What rights do their children or in fact their grandchildren have to come back here, or when they come back here?

Mr McCoy—The grandchildren or the children, as I understand it, have a right to come back to Norfolk Island with their parents and after having been back on the island, if they have attained the age of 18 they will then, after their 900 days in four years, have a right to enrolment.

Senator WEST—What about if their parents are deceased? Say they come back on their own, there may even be a generation or two generations—because this could be possible—since their ancestors were here on the island? What rights do they have?

Mr McCoy—Those particular people must also comply with our immigration regime. If that person—

Senator WEST—They have to be a TEP or a—

Mr McCoy—If the person that you have described can demonstrate a connection with Norfolk Island. I have just been passed the Legislative Assembly Act. To go back to your original question as to the period a person must be away, or can be away before they lose their right to vote:

The returning officer shall cause to be removed from the electoral roll the name of a person who (b) has been absent from Norfolk Island for more than a total of 150 days during the period of 240 days immediately preceding the day on which the electoral roll was closed in accordance with section 8.

Back to your last question, the persons will have to meet our immigration requirements, but there is a section in our Immigration Act—section 18, special relationship with Norfolk Island—and if a person can demonstrate a special relationship with Norfolk Island, then they can advance to a general entry permit status without having to go necessarily through a temporary entry permit period. Quite clearly one can say it is not that person's fault that they were born elsewhere.

Senator WEST—That is right. You do not choose where you are going to be born. Your mother usually does not choose it either. Are these rights the same as their rights to land? The Pitcairners who came here originally were given land grants, I understand.

Mr McCoy—Yes, quite correct.

Senator WEST—What are the inheritance entitlements of those?

Mr McCoy—This is only a personal view: we do have on the island a fair degree of land that was not passed on to the Pitcairn Islanders which became crown lease.

Senator WEST—Yes.

Mr McCoy—In my mind I question whether that land should not still be passed on to young Norfolk Islanders who do not have inherited land.

Ms ELLIS—You are suggesting it should be considered?

Mr McCoy—It should be considered. Why has the status quo changed?

Senator WEST—I do not know.

Mr McCoy—As you may understand, when the Pitcairners arrived here, it was a small group of people, some 194. I could not tell you the exact number of families. Off the top of my head, if I remember correctly, the families were given 50 acres. When a male married he received 25 acres and when a female Pitcairn Islander married she was granted half of that; approximately 13 acres.

Senator WEST—Those families have been able to maintain those leases, even when they have not been on the island?

Mr McCoy—Yes. We have an absentee landowners levy—I am talking about freehold land, not leasehold land. I noticed you mention maintaining leases. Providing people who are absent from Norfolk Island pay the absentee landowners levy, they retain the right to that land.

Senator WEST—Is that the leasehold land or the freehold land? That is the leasehold land, is it? What happens to the leasehold land?

Mr McCoy—I would assume, without having any recent advice—

Senator WEST—If you do not know, can you take it on notice and get back to us? If you cannot answer it, maybe somebody else can get back to us on notice with that.

Mr McCoy—I am sure somebody following behind me will be able to answer those questions.

Senator WEST—Yes, or they can take it on notice and write to the committee with the information. We do not expect you to know all of it necessarily here.

CHAIRMAN—Mr McCoy, what is your opinion with respect to the prerequisite of an Australian holding citizenship, or that prior to entering the Legislative Assembly that person must hold Australian citizenship?

Mr McCoy—As I explained earlier, we have quite clearly in the Norfolk Island Act recognised the special relationship that the Pitcairners have with Norfolk Island..

CHAIRMAN—What is your opinion?

Mr McCoy—There are people who are of Pitcairn descent who may be born elsewhere other than Australia.

CHAIRMAN—Yes. It is not just Pitcairners, is it?

Mr McCoy—I agree, it is not just the Pitcairn Island element of the community.

CHAIRMAN—It is much wider.

Mr McCoy—It is much wider. There are two issues. The first is, why should a person who is of Pitcairn lineage who may be born elsewhere, other than Australia, have to take out Australian citizenship to represent the community?

CHAIRMAN—Do you have a time limitation on that proposal?

Mr McCoy—It is 900 days in four years.

CHAIRMAN—Yes. But for a person to live outside, be born outside of Norfolk Island, is there a limitation of time when that person should come back and still rightly be able to claim Norfolk Island citizenship?

Mr McCoy—I believe there is a limitation of 30 days, if a child is born outside of Norfolk.

CHAIRMAN—What about your proposal? How do you feel about it? Do you fit comfortably with that?

Mr McCoy—I do fit comfortably with 30 days. Everybody has, in this day and age, the ability to return and register their child on Norfolk Island within 30 days, unless there are medical reasons.

CHAIRMAN—Then they can take the child away, or not even bring the child here—just register the child. Is that right?

Mr McCoy—Without misleading you, I believe the child has to be brought to the island.

CHAIRMAN—And then taken away again.

Mr McCoy—And then taken away.

Senator WEST—There could be some very premature infants who will fail that 30-day test.

Mr McCoy—That is why I said maybe for medical reasons some may fail that, but our immigration laws do make allowance for ones who do fail, if they can demonstrate a special relationship with Norfolk Island when they desire to return to the island.

CHAIRMAN—If one has Pitcairn genes, if I can put it that simply, it does not matter. You could be born three, four, fifth or sixth generation outside of Norfolk Island and still be entitled to come back.

Mr McCoy—That is an issue to be addressed by the community—how many generations is considered where they still have a special relationship.

CHAIRMAN—What are your feelings, though, as a member of parliament?

Mr McCoy—I do not really have a view to express on this particular point.

CHAIRMAN—What about the time period with respect to Australian citizens resident in the territory? Let me perhaps give you a preamble. What is to stop you giving citizenship to someone from anywhere in the world, for that matter—someone from Iran or Iraq or Kuwait or Nigeria, anywhere—and by residency here, then having a right to go to Australia? This would only be a temporary stop-off.

Mr McCoy—You obviously are not aware of the amendments to our immigration act, where it is a prerequisite for a person who now comes from another country to obtain an Australian visa in order to come to Norfolk Island.

CHAIRMAN—How long would it take to get residency here?

Mr McCoy—If a person is granted a visa on a temporary basis by the Australian government to come to Norfolk Island, that person would remain on that permit for three years. If the desire was to remain on the island, that person would have the right to apply for a general entry permit which is in force for five years. After that period, the person then has a right to apply for residency. During that time it is necessary to reapply for the Australian visa. If they meet all the

prerequisites of the Australian visa and of our immigration regime, is there any reason why they should not be granted residency on Norfolk Island and, therefore, possibly Australian citizenship?

CHAIRMAN—They would then become, if they wished to, members of the assembly if they were to win a seat.

Mr McCoy—Quite correct, yes.

CHAIRMAN—What about the two-way trade between Australia—being the mainland—and Norfolk Island? There is a differential or a difference between accessibility of mainland citizens into Norfolk Island and the relatively easy accessibility, if not unimpeded accessibility, of Norfolk Islanders into the mainland. Do you ever see that changing?

Mr McCoy—That really is an issue for the Norfolk Island government if they decide—

CHAIRMAN—Of which you are part.

Mr McCoy—Of which I am part, yes. If the government decides that we no longer accept Australian citizenship, as Norfolk Islanders, we therefore would need to change a number of our legislative acts and we no longer would accept the direct transportation or moving of Australians to Norfolk Island. That, of course, would be a negotiated position and, I guess, the Australian government would take the same view.

CHAIRMAN—The Australian government does not. The Australian government does not put any impediment in the way of Norfolk Islanders coming to Australia, but there is an impediment to go east.

Mr McCoy—We would take the same view to Norfolk Islanders moving freely to Australia.

CHAIRMAN—Has that been discussed at government level?

Mr McCoy—No, not that I am aware of.

CHAIRMAN—That is your personal opinion, is it?

Mr McCoy—That is a personal assumption from the question you put to me.

CHAIRMAN—If devolvement of further power from the Commonwealth to the Norfolk Island government was to take place, as you wish it to, do you think that may put in danger that easy access west and the impeded access east?

Mr McCoy—I do not see why it should put easy access in danger.

CHAIRMAN—Into the mainland?

Mr McCoy—No, in either direction.

CHAIRMAN—But it is not an easy access for Australian citizens here, except they have visas—for residency, I mean.

Mr McCoy—Move on and become a resident. As it is, in our immigration act at the moment, there is nothing stopping that from happening but, as I said earlier on, we would need to change legislation and that again would be an issue for the community. My person opinion is I really do not think the community would accept that.

CHAIRMAN—Would accept what?

Mr McCoy—The fact of the restriction on an Australian citizen coming to Norfolk Island which would affect then the ability for a Norfolk Island citizen to travel to Australia.

CHAIRMAN—No. You think the idea of Norfolk Island citizens or residents travelling to Australia unimpeded—I agree with that, I have no problems with that at all, I think it is wonderful—you agree with that part of it, but you still agree with the conditional entry of mainland citizens into Norfolk Island as residents?

Mr McCoy—You are quite correct, I do agree that we should control the people who we allow into Norfolk Island. For Australia to decide whether they wish to impede or control Norfolk Islanders moving to Australia, really is an issue for the Australian government.

CHAIRMAN—What I see is that power has been devolved to the Norfolk Island government from its previous exclusive governing from Australia, from the Commonwealth, from Canberra. If further power is given to the Norfolk Island government—the power of veto taken away, for instance—and there is no power of veto by the Commonwealth, some of that accessibility to Australia may have to change. I do not agree with it but I am just saying this is a hypothetical situation where there has to be some balance over how much increased power the Norfolk Island government wants before some of those rights or privileges, perhaps, the Norfolk Island people have to Australia may have to be reviewed. Have you thought of that?

Mr McCoy—I have considered some of the rights that Norfolk Islanders have to Australia. Basically we carry an Australian passport.

CHAIRMAN—Basically you do. You are in every sense an Australian citizen.

Mr McCoy—Unless we move to change that, I really do not intend addressing that issue.

CHAIRMAN—How deep do you think the feeling is that you really want to go it alone on Norfolk Island?

Mr McCoy—To run our own affairs?

CHAIRMAN—Yes.

Mr McCoy—The referenda that have been conducted in regard to that—

CHAIRMAN—With 70-odd per cent affirmative? Is that a true indication of it? I have not seen the referenda questions so I am unable to gauge that for myself. Have we got those referenda questions? We may have them.

Mr McCoy—You have them in two submissions.

CHAIRMAN—I just wanted the questions, that was all.

Mr McCoy—The first submission was put to this electoral anomaly last year by the Norfolk Island government. You more than likely will find it in the submission that has been put to you this morning by the Norfolk Island government.

CHAIRMAN—Yes. Are you happy with the number of Pitcairners currently in the assembly or would you like to see more people of Pitcairn descent?

Mr McCoy—That is really up to the people themselves.

CHAIRMAN—What about you, though, as a Pitcairner, as a member of parliament?

Mr McCoy—As much as I try to influence people of Pitcairn lineage to stand up and be counted, at the end of the day it is their decision if they wish to put themselves forward as a candidate for elections.

CHAIRMAN—You do not have an opinion on that?

Mr McCoy—I do not have a strong view, no.

CHAIRMAN—Are you happy with the status quo of four Pitcairners out of the nine?

Mr McCoy—Of course we have what I believe is, to a large degree, a very well entrenched democratic system here. If you are involved in Norfolk Island and you wish to reside on Norfolk Island, be you of Pitcairn lineage or otherwise, if you have spent—as I said earlier on—a substantial number of years living on the island, then a person will be quite well equipped to make decisions for the community as a whole. As I indicated earlier on, right from the outset—on Pitcairn Island—they have accepted new people into the community who have provided leadership and good progress for the community of Norfolk Island. That is why I find that our path towards internal self-government is a realistic path and we should continue on that path. As you have asked me questions on which we have provided information to you before, I can see how difficult it is for someone who lives in Australia to determine what is best for Norfolk Island and its community.

CHAIRMAN—Having said that, your ultimate goal then is full independence for Norfolk Island.

Mr McCoy—I would not say full independence. There are issues or things that the Australian Commonwealth would not hand over to Norfolk Island and I believe that we are not in a position to pursue those things—that is the establishment of armed forces.

CHAIRMAN—What about the ability for you to be self-sufficient in funding, for instance?

Mr McCoy—That is an interesting subject because we have demonstrated at times where we are moving towards a goal of being self-sufficient and self-funding. I will give you an example: the gaming moratorium or the gaming licences being issued by Norfolk Island—all indications show that it would have given us some type of windfall.

CHAIRMAN—You mean Internet gambling or do you mean the presence of a casino here?

Mr McCoy—No, the Internet interactive gaming, which the Commonwealth saw fit to put a moratorium on. It only affected, I believe, three places: Norfolk Island, Canberra and Tasmania. Yet a state like New South Wales can collect 10 per cent of its revenue from gaming machines.

CHAIRMAN—What of the state, say, of aged care, which Senator West mentioned here? I think it is a general consensus that a new hospital is needed. There is one on Christmas Island that we visited. I think the cost was \$42 million. They have a comparable population there as you have here—not as transient but transient, nonetheless, but not to the degree as here. How would you cope with a new hospital? The committee, having been here three times and having looked at the hospital, can say it does need to be upgraded. How would you raise money of that kind?

Mr McCoy—The issue of a new hospital has been discussed for many years. This is only a personal opinion, but we did spend a substantial amount of money upgrading the airport terminal. I was not in the assembly at the time, but that money may have been better spent on a hospital. Maybe we need to be putting some priorities in place.

CHAIRMAN—As you have probably learned, Mr McCoy—and I am sure you have—governments never have enough money. You can always spend money, no matter how much you have. It has been very interesting talking to you. I am obliged to say if there are any matters on which we might need additional information, the secretary will write to you. You will be sent a copy of the transcript of your evidence, to which you can make editorial corrections. The Hansard reported may wish to clarify some details with you before you leave. On behalf of the committee may I thank you again for appearing before us this morning and this afternoon.

[12.13 p.m.]

BENNETT, Mr Geoffrey James (Private capacity)

CHAIRMAN—Welcome. Although the committee does require witnesses to give evidence under oath, you should understand that these hearings are legal proceedings of parliament and warrant the same respect as proceedings of parliament itself. Giving false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The committee prefers that evidence be taken in public but if you wish to give confidential evidence to the committee, you may request that the hearings be held in camera and the committee will consider your particular requests. Are there any corrections or amendments you would like to make to your submission?

Mr Bennett—No corrections but some comment.

CHAIRMAN—You may now proceed with your statement.

Mr Bennett—Thank you, Mr Chairman. I would like to welcome the committee back to Norfolk Island. From the outset I must admit to be a little bit astonished that there are only three members of the committee, which I think numbers 12, here at this hearing. This electoral issue is a very serious matter for us in Norfolk Island. Given the nature of the process of the Norfolk Island Amendment Bill, which was defeated in the Senate, I find it quite surprising for a couple of reasons that the attendance is so small.

Senator WEST—But very good quality.

Mr Bennett—Absolutely. I have no doubt.

CHAIRMAN—Mr Bennett, we are represented by Ms Ellis from the House of Representatives, the Deputy President of the Senate and Chairman of the Joint House Committee, and me.

Mr Bennett—I mentioned it was surprising that the membership of this hearing was so small for a couple of reasons. At present, when the Howard government is being loudly accused of not listening to anyone, one would have thought a new leaf might have been taken up by the minister in an extra effort to go through this consultation process. I think it does represent a poor response to the objective of responding to the lack of consultation, which was quite an issue when the bill was debated in the Senate. I do not have the quotation with me now but a very pertinent quotation was that from Senator McKay, which is included in the Society of Pitcairn Descendants about the lack of consultation.

On the general question of consultation, I was a bit bemused to read in the submission of the Department of Transport and Regional Services about consultation. At the bottom of page 4 and on page 5 they begin to explain the defeat of the bill in the Senate but use rather cute words, referring to insufficient consultation and noting that it required wider consultation and much

more consideration. They go on to include as an addendum to that, addendum (g), I think it is, which lists the consultation processes which have occurred on this matter.

At first glance it looks quite impressive but, if you have a look at it more closely, it is not so impressive. Apart from three meetings since 5 March 1998 with the Norfolk Island government where electoral issues were discussed, the rest is a series of letters, radio interviews and the like. In fact I am aware of one press released which appeared in our local newspaper. I think it appeared before the Norfolk Island government had been told what was going on. It is interesting that if you look down that page, up until 31 March 1999 the Norfolk Island Amendment Bill was introduced in the Senate and then absolutely nothing thereafter. We thought the issue had died, but very clearly from the department's point of view and the minister's, it had not, but there does not appear to me to have been any consultation in the time frame between 31 March 1999 and now. Our first advice of this hearing, as a citizen, appeared in the local newspaper in November. It came as a bolt out of the blue.

The matter of consultation is a serious matter for us and I cannot emphasise enough the need for it. But I digress. I should from the outset declare, Mr Chairman, that I am a New Zealand citizen who has resided in Norfolk Island for 35 years. My submission to this committee, however, was not proffered by being an aggrieved elector who may be denied representation opportunities in future assemblies, nor was it submitted as an act of sour grapes towards the Commonwealth of Australia. I have effectively retired from active politics but whilst I maintain a keen interest in political and constitutional developments, I will not suffer disenfranchisement as I am already on the electoral roll. It is only if I leave the island for a protracted period and get struck off the roll that I would have trouble, as a New Zealand citizen, without an Australian passport. We are becoming a rare breed: New Zealanders here without an Australian passport.

In the period of time that I spent on the island I had the privilege of serving on both the eighth and ninth Norfolk Island Advisory Councils and was elected to the fourth, sixth and seventh Legislative Assemblies, serving as an executive member in the government on all three occasions. Importantly it was upon the eighth and ninth Norfolk Island Advisory Councils which fell the responsibility for negotiating self-government arrangements, having successfully rejected the imposition of the Nimmo recommendations. I cannot stress enough how important that period of time was to all the events that have unfolded since then. I do urge the members of the committee to read carefully that period of time. It was a very tense time for the people of the island and for the advisory council who were trying to negotiate against very long odds with a powerful neighbour for the right to govern ourselves.

As an aside to that comment, it is perhaps somewhat ironic that of the six surviving members of the eighth and ninth Norfolk Island councils currently on the island, four of those will be appearing before this committee in one form or another. It is no coincidence that many of us believe we are now being somewhat betrayed by the Commonwealth. What was agreed by both parties in 1979 is now being unravelled or reneged upon by the Commonwealth. I think that it is possibly part of the reason why some of these old hands have stayed very closely interested in the process and development of self-government.

I turn now to the submission lodged with your secretariat. The submission is both short and harsh in tone, borne out of frustration at what is seen as often an unwarranted and relentless intrusion into the matters which have been well attended to by the elected and administrative

arms of our government. But more importantly, this frustration to the intrusion and interference is borne out of the often non-consultative and unannounced policy shifts by the department, although supported by the relevant ministers, but which have served to change the political landscape in Norfolk Island so to speak. These policy shifts over time have set Norfolk Island on a very different course to that agreed to in 1979. The goalposts have been shifted. If you read the *Hansard* of the Grants Commission hearings in 1997, I think, you will see that the commission did drag that information—and I stress the word ‘drag’—out of the department that in fact the policy for Norfolk Island had changed.

The current policy for the island as enunciated in the department’s submission is explained as follows:

Internal self-government is interpreted as giving the Norfolk Island government a range of powers similar to the Northern Territory and the Australian Capital Territory.

That is, a range of powers similar to the Northern Territory and the Australian Capital Territory.

This is a major departure from the policy position of 1979. I think it should be said at this point that had the advisory council at that time known this was the real aim of the Commonwealth at the time of the negotiations, the Norfolk Island people—through their elected councillors—would never have accepted it. It would have represented to them something more akin to integration than a path to self-government. I am not making a big deal about it but I just want to make sure that the committee understands that these policy shifts are not just simple words. They have the effect of changing quite dramatically the way the powers under the Norfolk Island Act are used by the Commonwealth and the powers under section 122 of the constitution are used.

CHAIRMAN—Mr Bennett, when you say ‘the path to self-government’, you already have self-government. Do you mean independence?

Mr Bennett—No. We have a form of self-government now. We negotiated what we believed was a path towards full self-government. I am not talking about independence at all. We have never contemplated that personally. The policy position, as I have just said, has shifted about somewhat since the late 1980s, coincidentally I believe following the move of the department’s secretary, Tony Blunn, who I believe would not have allowed it. He was a supporter of Norfolk Island. It is interesting to look at the processes from 1979 until the late 1980s. We did not have a great deal of difficulty with initiatives being raised from the Commonwealth out of the blue and whatever.

The changes I have suggested began with the shift of department secretary, Tony Blunn, but not that in isolation. It happened to be the time in about 1989 when we had the emergence of the super departments appearing. It was the time when the island’s representation was downgraded to very junior ministers. It was the time when former public servants began to be recruited as the administrator. All that happened in around about 1989 or 1990. It represented quite a shift and I think that is quite significant.

Turning to the terms of reference, I said in my submission that consistency should not be an issue and I cited the Honourable. Bob Ellicott QC, MP, who was the minister at the time and, as some of the former speakers here have said—

CHAIRMAN—He was the Attorney-General rather than the minister for—

Mr Bennett—No, he was the minister. He was Attorney-General and then he resigned on a point of principle and was re-elected and became the Minister for Home Affairs. It was in that capacity that he negotiated the self-government of Norfolk Island. He said, as you have probably been told, words to the effect that the laws and policies that regulate other parts of Australia were not necessary to be implemented to regulate Norfolk Island. He could see that there was quite a difference. Successive ministers after that also repeated the same line. I mentioned in my submission that Gordon Scholes, who was the minister, was attributed with the phrase, 'Norfolk Island is a unique place with unique solutions required to unique problems.' That is attesting to the fact that we were accepted as being quite different and that the laws and policies that applied in Australia did not necessarily have to apply here. In terms of whether a citizenship criteria should be introduced, I say no. If and when it is ever raised by the Norfolk Island electorate, it will be dealt with quite effectively by the Norfolk Island polity and should not be dealt with by any other body.

Looking at the Department of Transport and Regional Services submission in relation to this point, on page 6 you will note that it says, 'It is a generally accepted tenet of representative government worldwide that a country's voters and elected representatives must be citizens of that country.' That is not correct.

CHAIRMAN—That is New Zealand, Mr Bennett, with respect, is it not?

Mr Bennett—No, in fact there are 19 nations, according to the PARLINE web site on the Internet.

CHAIRMAN—Can you vote in New Zealand without being a citizen?

Mr Bennett—The 19 nations include the UK, New Zealand, the Netherlands and a number of others—Jamaica, Mauritius—I will not go through them. What the department are saying is absolutely not correct. They ought to have known about this and I just wonder why they have attempted to portray it in that form. I think it is only one error of fact in their submission. I want to come to a few others in a short while.

There are many in the community who are surprised to read the minister's and the department's promotion of dual citizenship as a means of overcoming the possibility of disenfranchisement. Personally I am quite astounded by that. I see it as prostitution of one's nationality, to have to take another nationality out for the purpose of just voting. But that is a personal view. It is, however, shared in some form by some prominent and now former federal politicians and it is on the public record. I quote from the legal regimes inquiry of 1989 or 1990. The Hon. Ian Sinclair, during the inquiry said, and I quote—this is in relation to dual citizenship:

There is a point of principle about encouraging dual citizenship, because the holding of 2 (or more) citizenships may well be thought to run counter to the underlying rationale of requiring citizenship qualification at all—that is, if citizenship is required as a demonstration of commitment, then what commitment is demonstrated by the holding of dual or multiple citizenships?

That is very interesting. It is at the end of that section—and I will not reiterate—that the Human Rights and Equal Opportunity Commission at page 4 stated—and it has been said already this morning—that it would probably breach covenant article XXVI to disenfranchise certain beneficiaries of that right.

Turning to the time period for eligibility to enrol and whether that should be lowered—an emphatic no. There is a lot of misinformation also from the department about this particular point and I draw your attention to page 15. He is talking about the qualifying period to be able to vote, saying this qualifying period is not a new qualification for Norfolk Island. It applied from 1857 to 1968. The explanation for this however was not included. The fact was that before the tourist industry got under way in the late 1960s it was not an issue. Very few people arrived. In the very early 1960s there was one aeroplane a fortnight. We did not have a tourist industry as such.

There are some on the island who believe that the question of extending rights to Australian itinerant workers on the island—arguing that it was in the national interest—was simply a smokescreen and it may to some extent be a deliberate effort to dilute the percentage of Norfolk Islanders, as a percentage of the whole electorate, at the same time diluting that 70 per cent to 80 per cent of the electorate who have consistently rejected further Commonwealth intrusion. It must be of some concern to the Commonwealth when we—I know they initiated referendums in Norfolk Island and they continually, or have consistently returned almost a 70 to 80, to 30 to 20 result.

You may recall that on television a year or two ago a prominent citizen commented that this kind of deliberate action of dilution—that is, dilution of the percentages of the ethnic people on the island—was akin to ethnic cleansing without violence. The minister went on television also to say that he thought that was disappointing. But there are many here who agree that there is some truth to that. The effect, they say, appears to be no different to the transmigration policies which have, at various times, severely diluted the voices of the ethnic peoples of, for example, Timor, Irian Jaya, New Caledonia and, before that, Mauritius and Fiji.

Importantly the Human Rights and Equal Opportunities Commission say at page 8 that relaxation of the residency requirement might permit a number of transient Australians to swamp a small electorate as a constituency, neither well versed in the distinctive ways of the island nor committed to its long-term interests.

Senator WEST—Excuse me, but that is not the view of HREOC. That is the view of the Norfolk Island government, as reported in the Norfolk Island Administrative Bill 1999, namely Digest No. 11 1999-2000. It is a quote they have used there. That is not HREOC's view. It is important to get clarification.

Mr Bennett—Senator, I have noted the footnote and I concur with that. I apologise for not having seen that.

Senator WEST—You are not going to read the following paragraph, are you? You might like to read that in as well.

Mr Bennett—If you would like me to.

Senator WEST—Yes, thank you.

Mr Bennett—The final paragraph said:

This appears to raise issues of minority rights under article 27 of the ICCPR. However, as noted above, such rights are not absolute.

That we understand. It continues:

Moreover, article 27 minority rights must be exercised consistently with other ICCPR rights ...

Senator WEST—Including those provided for in article 25.

Mr Bennett—Mr Chairman, in closing let me say that part of the cause of what I see in the last 10 years as the persistent interference by the Commonwealth has arisen because of the change of departmental policy. It has shifted from the policy enunciated earlier—in fact, I can table it for you—in the statement issued by the minister, Bob Ellicott, in May 1978 which said that Norfolk Island was headed towards self-government. It is now quite different. We are now talking about a policy which suggests:

The department should ensure that all Australians on Norfolk Island enjoy the same rights and benefits as all Australians.

That is a noble objective, but it runs counter to that agreed in 1979. That has troubled a lot of people. An earlier policy position taken from the 1994 Commonwealth manual was that one of the department's objectives was to 'enhance Australia's sovereignty over Norfolk Island'. That, again, would seem to run counter to the agreement that was done with Bob Ellicott in 1979.

I am conscious of the time so I will now close by saying that I sincerely implore the committee to heed the wishes of the people of Norfolk Island in relation to this electoral process and to accept the status quo. As you will find in the documents that attest to 19 nations around the world not requiring citizenship for one thing or another, I think one of the solutions might be, if the federal government insists on having Australian citizenship inserted into the act, that it should be Australian citizenship or British Commonwealth citizenship, as is the criteria in a number of those countries. That would overcome the disenfranchisement of the few New Zealanders left without an Australian passport and the British and other people here.

Mr Chairman, that is a hastily prepared response, given the time line. I thank you for the opportunity of being able to say it. Before I stop altogether, you did ask the previous submitter John McCoy about the matter of residency for foreigners. You asked about somebody from Nigeria or other places. I do not have the full details, but there is a memorandum of understanding in place which precludes us from offering residency to anyone such as you outlined. It has to go to the Commonwealth first. That is an important question. If you took it

seriously, maybe the Norfolk Island government might answer that more fully for you. Do you remember the question?

CHAIRMAN—Yes, I recall that question.

Mr Bennett—There has been a memorandum of understanding in place for a long time—maybe 30 years, maybe not quite that long—that precludes us. It was designed not to make Norfolk Island the back-door entry to Australia for foreigners, amongst other things.

CHAIRMAN—Correct me if I am wrong, but I thought you said the system where you would need to be eligible is to either be a citizen or a member of another Commonwealth country. Is that right?

Mr Bennett—That seems to be a fairly common thread through this list of nations.

CHAIRMAN—Yes. That would then include Nigeria and Kenya.

Mr Bennett—Yes, it may do so, but I think the memorandum of understanding can easily be rejigged to cope with that. I am only throwing that as a thought to you. The Commonwealth clearly, if they felt threatened by those particular words, would say no and maybe there was room to negotiate something.

CHAIRMAN—Yes.

Mr Bennett—But not the words ‘British citizenship’, because that was the one in 1984 you got us to take out of the—

CHAIRMAN—Of your bill.

Mr Bennett—Yes. Incidentally, the department says it was taken out because they acceded to our request, which is not quite right. They said that at the time it did not matter because the Norfolk Island government at that stage was akin to a local body or a shire council. That is quite incorrect as well, because at that point we had immigration and customs and quarantine. They were certainly not anywhere near shire council authorities—we had that at that time—because they go on to say:

Once more powers were devolved to Norfolk Island, then it was necessary to deal with the citizenship matter in the electoral process.

We had all those big powers. If you have a look at the transfer of powers since 1979, the greatest number of those are schedule 2 powers which really are not major issue powers anyway.

CHAIRMAN—Thank you for clearing up the other issue for us. To vote in New Zealand you need to be either a New Zealand citizen or a permanent resident.

Mr Bennett—In New Zealand?

CHAIRMAN—Yes.

Mr Bennett—I do not know exactly, but I can read it for you.

CHAIRMAN—I think that is what it is. That is the information we have.

Mr Bennett—It says:

To be eligible you have to hold New Zealand citizenship or persons registered as electors on 22 August 1975 regardless of their nationality.

CHAIRMAN—Our documentation, which I think is contemporary—

Mr Bennett—This is from the Internet this morning.

CHAIRMAN—Ours seems to be pretty current. The fact is that the system which allows non-residents to—

Senator WEST—Non-residents or non-citizens.

CHAIRMAN—I will defer to Senator West.

Senator WEST—No, that is all right. I was not going to follow that issue, but I had one other question. You said of the eighth council there were four people appearing today before us. Can you name those four, please?

Mr Bennett—Yes. The Hon. David Buffett appeared first, Lisle Snell and me. I understand Greg Quintal will be giving evidence this afternoon.

Ms ELLIS—What is your opinion about the way the two options were framed in the one question in the referendum? Do you have a view on that?

Mr Bennett—No, not really, but I understand from what Mr Buffett said that that was the way the Commonwealth projected it to us.

Ms ELLIS—I know that, but do you have a view about it?

Mr Bennett—No. There might have been some aberration in the result as a result of that. I do not concede that the diminishing number of people who are voting yes has anything to do with their changing loyalty, so to speak. It probably has a lot more to do with the composition of the population and where it ebbs and flows. We must not forget that there is a fair amount of propaganda from the Australian scene which encourages people to—

Ms ELLIS—From where?

Mr Bennett—From the Australian scene. If you pick up the newspaper today, there is hardly an issue that does not have some opportunity for Norfolk Island, extended to a scholarship here,

some funding here, et cetera. With that, if you put your hand out, then you have to really be prepared to give something else, too. It could be, by default, a slipping of the numbers.

CHAIRMAN—Would you rather those scholarships be funded from Norfolk Island?

Senator WEST—Or not available?

Mr Bennett—That is a big question and I would not like to give you a snap answer to it. I am prepared to give it some thought.

It is only because there is not a simple yes or no response to it. There are some very worthy things that we do together with Australia but the very idea that it is seen by some as perhaps buying loyalty is not well accepted all the way around the place.

Ms ELLIS—Can I very briefly follow that a little bit further without wishing to labour it. Are you suggesting that assistance from the Commonwealth is seen as buying loyalty and not just a simple—

Mr Bennett—No.

Ms ELLIS—We could sit here for an hour and debate this and I do not want to do that. We have not got the time. But you just made a comment that I think we have to clarify because there is a big difference in people's interpretation of how Commonwealth assistance is actually handed out.

Mr Bennett—It is more than coincidence that in the last decade the offer of financial assistance by the Commonwealth has been extraordinary. Every government will have a soft belly somewhere and say, 'Look, we need this amount of money and we haven't got it. Maybe we'll bite the bullet and go with that.' You do not get anything for nothing—nothing for nothing—and so those funding issues have been thrown back at us time and time again, when you begin to look at reports. There is the Grants Commission report where the Commonwealth funding equation to Norfolk Island had increased by the addition of money that had been given to Norfolk Island.

CHAIRMAN—That is accountability, surely.

Mr Bennett—But it became a tool for them to say, 'Look, we're spending X amount of millions of dollars on the island'—and I do not think that was entirely fair. We were very grateful to get some of the money we got, but not all of it is well explained when they write their reports to committees. For example, they talk about the \$2½ million for the airport. At the time the federal government was devolving itself of all the airports in Australia. When they did it under the ALOP arrangement they spent millions getting them all right, then handing them to local bodies, except the major city ones.

CHAIRMAN—You don't disagree with the government upgrading the airport?

Mr Bennett—Absolutely no. I was part of the negotiating team. They had, in my term, a duty to bring it up to scratch exactly the same as they would do with ALOP. Our negotiations began with an ALOP transfer but the ALOP thing was stopped, so we had to begin the discussions again. They were still willing to hand the airport over because it saved them three-quarters of a million dollars a year in costs, so there was a benefit to them as well to get it out of their system. But when you talk about the water assurance scheme, there was a report 20 years or so before, that suggested we had a problem with underground water. The Commonwealth was running the place then so there was a duty of care in a way for them to say, ‘Let’s fix the problem up.’

In 1979, when we negotiated self-government, we did not have a lot of expertise in the negotiations. We were not like the Northern Territory and the ACT, who knew exactly what they needed and they negotiated to get all their roads updated and hospitals. They did all the infrastructure negotiations in the total package. We were perhaps naïve at that time and did not, so we took over a broken down horse, so to speak. If our discussions with the Commonwealth about encouraging them to fund some of the problems that were left when we took over, is seen as us with our hand out, I am afraid there is another point of view.

Senator WEST—I am a little bit offended and a little bit upset—is probably the right word—with one of your comments there, in saying that there is a quid pro quo asked for or implied with grants that are given out. This committee did the report about communications. One of the things we suggested to the government and they have taken it up, is that the Networking the National grants be extended to the external territories. Norfolk Island, Christmas Island and Cocos were not eligible under the first round of those grants. We did not, as a committee, put that recommendation in there for any other purpose than to see that the three territories had access to some funds to upgrade the telecommunications infrastructure.

Now you say to me that we have just had a whole lot of grants given out. I know you have got \$750,000 for the satellite and whatever it is for Networking the Nation, plus the money for the telemedicine, and you are implying to us—I might be wrong but I am getting the impression that you think there is a string attached to it because it has arisen out of a committee recommendation. I am a little bit concerned and a little bit upset that you might be thinking that. We might not all be here but I can speak for the whole committee in that we put that recommendation in for no other purpose than we thought your telecommunications needed upgrading, no strings attached. Then you tell us that you think there are strings attached. I am sorry, but it is a little bit upsetting.

Mr Bennett—I appreciate what you say, Senator. In terms of the telecommunications one, which is most recent, I do not know the background to that. I would hope that it was, as you have suggested, a very genuine attempt to help each of the three isolated external territories. You have only to read the record to see that, inevitably, whatever is spent by the Commonwealth is added onto the Commonwealth contribution to Norfolk Island and it is used, unfortunately, as a lever to say—when we are pushing for more self-government, this gets trundled out from time to time to say, ‘It’s costing the Commonwealth more and more money. Look, 10 years ago it was this and now it’s this.’

If it was the case that they explained it so that you could isolate the different amounts of money in that funding package, there would not be a problem. They would clearly see that genuine attempts to help isolated communities, with no strings attached, is isolated. Anything

that we went cap in hand for should be left in the list and maybe we have got to wear the consequences. When we ask for more self-government and they say, 'Look, it's costing us extra. If we give you all these more powers, it may inevitably be that more and more Commonwealth money is going to be needed to keep Norfolk Island going.'

Earlier in the meeting Senator Lightfoot talked about the new hospital and other things. Those are just examples of what might happen and I am sure the Commonwealth is quite aware of it.

Senator WEST—Do not go looking for ulterior motives, please! As far as this committee is concerned, it is not an ulterior motive.

Mr Bennett—Okay, I understand.

Senator WEST—We would get very angry if that perception was to continue to circulate around the island. If that perception is going to continue to be perpetrated around the island, we may as well not bother coming. We do not come for very long but at least we do make an effort to try and get here. On notice, you made the comment that in today's local paper there were a whole lot of Commonwealth things there that you felt had strings attached. Maybe you would like to—

Mr Bennett—Not in today's paper, Senator. If you like, I will get them out for you for the last six months. I will be happy to do so.

Senator WEST—That would be lovely, so we can see if we think the same as you and perceiving things to be.

Mr Bennett—I am happy to do that.

Senator WEST—Those perceptions need to be clarified.

Mr Bennett—Yes.

CHAIRMAN—I am going to close the meeting because of time. I thank you, Mr Bennett, for your contribution this afternoon. I am obliged to read the following. If there are any matters on which we might need additional information, the secretary will write to you. You will be sent a copy of the transcript of your evidence to which you may make editorial corrections. The Hansard reporter may wish to clarify some details with you before you leave. The committee stands adjourned until 1.45 this afternoon, at which time we hope to hear from Mr Greg Quintal MBE.

Proceedings suspended from 12.53 a.m. to 1.52 p.m..

PEARSON, Mr Timothy John (Private capacity)

QUINTAL, Mr Gregory, MBE (Private capacity)

CHAIRMAN—Welcome.

Mr G. Quintal—I am 82 years of age and hopefully in a few months' time I will be 83.

CHAIRMAN—No doubt about that, Mr Quintal. We just took a vote on it and we are sure that is going to happen.

Mr G. Quintal—I have lived on Norfolk Island all my life. My children are here and my great grandchildren are here.

CHAIRMAN—Is it the wish of the committee that the submissions received from Mr Quintal and Mr Pearson be accepted as evidence to the inquiry and authorised for publication? There being no objection, it is so ordered.

Although the committee does not require witnesses to give evidence under oath you should understand that these hearings are legal proceedings of parliament and warrant the same respect as the proceedings of parliament itself. Giving false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. Are there any corrections or amendments you would like to make to your submissions?

Mr G. Quintal—No, not me, thank you.

Mr Pearson—No.

CHAIRMAN—The committee prefers that evidence be taken in public but if you wish to give confidential evidence to the committee, you may request that the hearings be held in camera and the committee will consider your particular request. Before we ask some questions, do you wish to make an opening statement?

Mr G. Quintal—Yes. This submission is not for myself but for the sake of my family which will succeed me when I pass on, if it does any good. I have spent more than 20 years on the Norfolk Island Advisory Council and one term on the Legislative Assembly. It was the eighth and ninth Norfolk Island council from 1976 to 1979 which negotiated the self-government arrangement for Norfolk Island with Bob Ellicott QC, who was the Minister for External Territories at that time. In May 1978 Bob Ellicott announced:

The government is prepared over a period to move towards a substantial measure of self-government for the island and is also of the view that although Norfolk Island is part of Australia and will remain so, this does not require Norfolk Island to be regulated by the same laws as regulate other parts of Australia.

To repeat this statement by Ellicott, Norfolk Island was not required to be regulated by the same laws as regulate other parts of Australia, but now the Australian government wants to change

part of this deal without the consent of the Norfolk Island people. We have had three referenda on this electoral matter and have been rejected by the relevant minister from Canberra.

About 80 per cent of the people said they did not want the electoral system changed. I believe that if a referendum is held and the result is overwhelming, your government should take notice of the people's wishes. As the Australian government cannot seem to run their own affairs, it seems unusual that they are trying to interfere with ours. My submission begins from here and tells you of my concern about the changes that will happen if the electoral system is changed to allow especially TEPs to vote. I am happy to answer questions from the committee. Some of your questions may need further consideration. I would request that I be allowed to consider your questions more fully and get back to you in writing if this is okay.

If the Australian government wants to know what the people of Norfolk Island want, they can have a referendum on any matter at any time. They would save themselves money and time—also for us in Norfolk Island. I have some newspaper cuttings which tell us a little of the struggle which we have had to try and get self-government. You might like to read them or get a copy of them.

CHAIRMAN—Thank you, Mr Quintal. Yes, you may take questions on notice and answer them at an appropriate time in writing if you wish.

Mr G. Quintal—Yes. Thank you.

CHAIRMAN—Mr Pearson.

Mr Pearson—I do not have a formal submission.

CHAIRMAN—Would you like to proceed straight to questions or do you wish to make a statement? You are welcome to do either.

Mr Pearson—I suppose I could make a statement that I am opposed to the two parts of the proposed bill for candidacy and eligibility to vote on Norfolk Island. In the second part, for short-term itinerant workers to have a vote on my island within a short period of time is inconceivable to me. It seems impractical and would be unfair to both parties. As far as the proposed Australian citizenship requirements, I am opposed to these also. We have had a system which we have been using for a long time. We do not see any problem with it and I see no need to change it.

CHAIRMAN—Thank you, Mr Pearson.

Senator WEST—What are the number of TEPs on the island?

Mr G. Quintal—I think around about 200. I am not sure on this.

Senator WEST—Do you know how many of them might have New Zealand citizenship?

Mr G. Quintal—I will have to answer that on notice.

Senator WEST—I am wondering why you believe that allowing more TEPs to participate in the running of the island would diminish the level of influence held by the descendants of the Pitcairners and how this would cause instability and harm the longer-term wishes of the Norfolk people to gain full self-government. What has led you to hold that belief, that the TEPs would vote any differently or have different voting patterns to the descendants of the Pitcairners?

Mr G. Quintal—I think it is quite wrong for TEPs to vote after six months because they would not have a clue what the people of the island want.

Senator WEST—Some of those TEPs and also the GEPs come to this island with professional skills and provide essential services on this island. Is that correct?

Mr G. Quintal—That is correct.

Senator WEST—And you do not think they should have say in how the island is run and how those services might in fact be improved?

Mr G. Quintal—I do think that any person coming to the island as a GEP should go through the same process as other persons.

Senator WEST—So you are going to make them spend four years here?

Mr G. Quintal—Yes.

Mr Pearson—I do not think they should have their say by way of vote. There are other ways and forums of getting ideas or—

Senator WEST—How? If you cannot vote, if you cannot participate—

Mr Pearson—Depending on what they are involved in.

Senator WEST—If you cannot participate in the election of those people who are going to make the laws and decide the budget for the various services and you have expertise in the delivery of those services, if you are not going to allow them the right to have a vote but you are going to dictate to them how they will spend the money, do you think that is fair?

Mr Pearson—Yes.

Senator WEST—Why?

Mr Pearson—Because they may have skills or experience in specific matters and they are given rights to have a say on more than what they are involved in, which is in voting the prospective governments into Norfolk Island, which they do not know anything about. I think that is inappropriate.

Senator WEST—You do not think the fact they might be involved in actual day to day seeing how administration is going and being undertaken, that does not give them some skills and some rights to have a bit of a say on that.

Mr Pearson—Yes, but not by way of voting for government elections.

Senator WEST—How else will they have a right to have a say?

Mr Pearson—Like I said before, it would depend on what they were involved in, or what their role is in on Norfolk Island.

Senator WEST—I do not know how things work here, but I would like to know how you think they could have a say and have some input.

Mr G. Quintal—We can get doctors and staff at present and it seems to—

Senator WEST—We cannot get them on the mainland, so you are joining the club there.

Mr G. Quintal—We can here.

Senator WEST—We cannot. You are one ahead of us there.

Mr G. Quintal—That would be a good thing for Norfolk. We can get other persons we need on the island as well.

Senator WEST—What is going to happen in the future, though? Particularly I am thinking in terms of nursing and medicine, professional people. There are not enough nurses and other health professionals around. Where you are going to be offering them a salary package which is presumably similar to what they are going to be able to get on the mainland, but they are not going to have a right to have a vote or a say in the local affairs here, whereas they will in the community they are in on the mainland. Do you think that is going to have an impact?

Mr Pearson—That will be a decision for them in either taking the job or not.

Senator WEST—What if you cannot get enough registered nurses with midwifery experience?

Mr G. Quintal—Up to date we have been able to get the services of nurses and I cannot see any changes taking place, because when they do advertise for nurses to come here they get ample inquiries and people want to come here.

Senator WEST—Mr Quintal, I will just give you a professional warning there. I have a background in nursing and I am a member of the two colleges of nursing in Australia. There is a worldwide shortage of nurses and I would suggest the fact that you have been able to attract adequate nurses to date is possibly more by good luck than good management. Maybe this is an issue you are going to have to address in the very near future, just as our defence forces are having to address it, just as a lot of other small, rural, isolated communities are having to

address it. I give you that, not related to this inquiry, as a piece of advice. This is an international crisis as far as a shortage of nurses go. I would suggest it has been better luck than good management at this stage.

Ms ELLIS—Mr Quintal, can I ask for your opinion on the recent referendum. Do you believe there is very much of a different view in the community between the two issues put in that question?

Mr G. Quintal—To?

Ms ELLIS—Do you believe there is a difference of opinion within the community in relation to the two questions asked? In other words, does the feeling on the citizenship side of the issue run differently to the feeling on the length of residency question? Is one more problematic than the other?

Mr G. Quintal—I do not see it that way.

Ms ELLIS—Do you see them both of equal value?

Mr G. Quintal—I would think so, yes.

Ms ELLIS—Do you get that feeling from the community as well?

Mr G. Quintal—Yes. When the government has a referendum here, I think that people signed that referendum, which is the majority. I think the majority should count.

Ms ELLIS—Yes, sure. I will rephrase my question in another way. Do you believe that if the two issues had been put separately they would have received the same vote?

Mr G. Quintal—I cannot answer that question. I do not know.

Ms ELLIS—Mr Pearson, do you have a view?

Mr Pearson—I do not know either. I do not think so, no.

Ms ELLIS—You do not think they would have got the same vote.

Mr Pearson—I do not think they would have differed much, no.

Ms ELLIS—You do not think they would have differed much?

Mr Pearson—No.

Ms ELLIS—I get the impression that with some people in the community the issue of citizenship is less of a problem than the issue of the period of residency requirement. Do you both disagree with that?

Mr Pearson—Yes. I would say you are not around as much as I am.

Ms ELLIS—I am not around as much as you. There is no doubt about that. I do not mind adding, I wish I was for a while. You do not pick that up at all?

Mr Pearson—No.

CHAIRMAN—Thank you. I do not have any further questions. Thank you, Mr Quintal. Is there anything else you would like to add?

Senator WEST—Mr Quintal, you have been here for a while. I would like some historical information, going back to 1984-85, when the change took place. How did that happen? The change in 1984-85 allowing non-citizens to vote, how did that take place? We have heard that it was part of the legislation, or it was possibly an unintended consequence of the legislation. Was the interpreting of that done by the Legislative Assembly or the council at the time, or was it done by individuals? What consultation took place in the community?

Mr G. Quintal—I would like to answer that on notice.

Senator WEST—That is fine. If you can think about that one for me it would be great.

Mr G. Quintal—Yes, no problem.

Senator WEST—Thank you.

CHAIRMAN—Thank you very much, Mr Quintal. Thank you, Mr Pearson. I am obliged to read to you some more details. If there are any matters on which we might need additional information the secretary will write to you. You will be sent a copy of the transcript of your evidence to which you can make editorial corrections. The Hansard reporter may wish to clarify some details with you before you leave. I thank you both for your attendance here today.

[2.12 p.m.]

ADAMS, Ms Robyn Eleanor (Private capacity)

CHAIRMAN—Welcome.

Ms Adams—The person who appears before you today is Robyn Eleanor Adams, Australian born in 1944, Australian educated to tertiary level, daughter of a Norfolk Islander Jack Adams and an Australian Margaret Beveridge, mother of two island-born sons, permanent resident of Norfolk Island since 1966 and an Australian passport holder.

CHAIRMAN—I will perhaps stop you there. I am obliged to read out the rest of this syllabus here to you. I know you have heard this before and I do apologise, but it is a requirement of the committee, so that we have full privilege, that I do this.

Ms Adams—I understand.

CHAIRMAN—Although the committee does not require witnesses to give evidence under oath you should understand that these hearings a legal proceeding of parliament and warrant the same respect as proceedings of parliament itself. Giving false or misleading evidence is a serious matter and may be regarded as contempt of parliament. The committee prefers that evidence be taken in public but if you wish to give confidential evidence to the committee you may request that the hearings be held in camera and the committee will consider your particular request. Do you wish to make an opening statement?

Ms Adams—Thank you.

CHAIRMAN—I invite you to continue your statement.

Ms Adams—The background I have given is deliberate. It is to establish my bona fides to speak to you from two fronts: as an Australian national and as a permanent resident of Norfolk Island. They are not one and the same thing. It is imperative that we understand this from the outset. I am an Australian national and I am a permanent resident of Norfolk Island. I have two separate and distinct pieces of paper to prove it. Please let us understand that there is a very real difference between these two pieces of paper. One is a passport issued under the Commonwealth of Australia Passports Act, which tells me that I am an Australian national; the other is a certificate of residency under the Norfolk Island Immigration Act, which tells me that I am a permanent resident of Norfolk Island. I therefore submit for the record that I have dual residency in two separate and distinct jurisdictions—Australia and Norfolk Island—each with their own distinct and very different immigration regimes but, more importantly, in the context of this inquiry, with very different electoral regimes.

It is also important that we remain mindful of the fact that not only do I have dual residency rights, so too does every other Norfolk Islander with permanent residency rights, albeit he or she has an Australian passport, a New Zealand passport, a Dutch passport, a British passport, an

American passport or indeed, any other passport. That is my understanding. In speaking to you today I have chosen to wear the hat of a very concerned Australian national.

Your committee—which I understand is comprised of 12 members, though only three of you are able to be here today—is charged principally with reviewing and reporting on Australian citizenship as a prerequisite to voting for or being elected to the Legislative Assembly of Norfolk Island. I am charged by my conscience to appear before you, not as your adversary but as your counterpart, a fellow Australian national who, by the circumstances of her birth, has her cultural roots and her loyalties in two places—Australia and Norfolk Island.

Even more importantly, I appear before you as a human being who is so concerned about the inquiry taking place today that I am moved to appeal to your innermost knowing that what is being postulated at this time in respect of the Norfolk Island electoral regime is not right and does not accord with the principles of democracy. I repeat those words: that what is being postulated at this time in respect of the Norfolk Island electoral regime is not right, does not accord with the principles of democracy and must not come to pass unless the Norfolk Island electorate, by due processes of law, by the referendum process, agrees it should be so.

Let us for the moment put aside all politics, all nationalism, all preconceptions and as fellow human being discuss the real issue before us today. Let us try and ask questions that are divorced from politics, party alliances, nationalistic fervour and preconceived notions.

Let us make absolutely sure that the issue we are addressing here today cannot be misinterpreted on the international stage and ask ourselves this question: is it appropriate in the year 2001 for anyone to encourage, to accept, to endorse or to support a doctrine that has its genesis in a belief that might is right, a doctrine where democratic process, the rule of law and the wish of the majority of people expressed at referendum in one jurisdiction can be dismissed by another, more powerful jurisdiction under the guise of nationalism?

Whilst I do not believe for one moment that members of the committee or in fact any Australian today would support such a doctrine, we must be ever on our guard. Let us be ever mindful that the world went to war in 1941 on this very issue and Australia, along with Norfolk Island's fighting best, fought side by side against a common enemy. That enemy was the doctrine that might is right. Let us be ever mindful of the Anzac ode, 'Lest we forget'.

In order for us to try and come to a mutual misunderstanding as fellow Australian nationals, I now ask a series of questions which you must all consider if we are to reach an appropriate conclusion. Question 1: do I, an Australian national, have the right to require Norfolk Island residents, under their separate and distinct electoral regime, to be Australian citizens as a prerequisite to their voting in and standing for elections in the external territory of Norfolk Island—I repeat, in the external territory of Norfolk Island?

To answer that question I must first ask myself: has the Australian nation been disadvantaged since 1856 by the Norfolk Islanders having their own electoral and immigration regimes? As an Australian national, my answer based on historical fact, can only be a resounding 'No'.

Question 2: having answered no to question 1, I must now ask myself, an Australian national: where is the problem today? Are there subversive elements on this island? Is there a burning of

the Australian flag? Is there a mutiny? Are there Australian nationals permanently residing on Norfolk Island being treated any differently to Norfolk Islanders permanently residing on the island for the same length of time? Is there racial discrimination being practised? Are we in fact able to document any problems at all that the Norfolk Island electoral regime is presently causing Australian nationals living anywhere in the world?—remembering that I am one.

On the facts before us today, I think you and I must agree the answer to each of these questions must be a resounding ‘No’. Further, we must agree that if evidence cannot be found to demonstrate there is intergovernmental noncooperation on the part of Norfolk Island with Australia, then the committee must surely find in favour of the age-old adage, ‘If nothing is broken, don’t fix it.’ Rather, let wisdom be the guiding principle and the status quo remain. So speak I, as an Australian national.

The very next question I must ask myself as an Australian national is this: do the Norfolk Islanders have their origins, their grassroots, in Australia? As an Australian national, my knowledge of the history of the Norfolk Islanders says my answer must be a resounding ‘No,’ and if my history is correct the Norfolk Islanders of today are descended from the Bounty mutineers and their Tahitian partners who settled Pitcairn Island. In fact, are they not the descendants of the Pitcairn Islanders who, in 1856 to be precise, founded the third settlement of Norfolk Island under the auspices of the British government? The first two settlements, both out of Sydney Cove, Australia, were earlier disbanded. Was it in acknowledgment of the very fact that the Norfolk Islanders do not have their origins, their grassroots, in Australia that prompted the Commonwealth of Australia, when it determined in 1979 that Norfolk Island shall achieve internal self-government, to record in the preamble to the Norfolk Island Act of 1979, the island’s constitution, so to speak, the following words:

And whereas the residents of Norfolk Island include descendants of the settlers from Pitcairn Island.

And whereas the Parliament recognises the special relationship of the said descendants with Norfolk Island and their desire to preserve their traditions and culture.

And whereas the Parliament considers it to be desirable and to be the wish of the people of Norfolk Island that Norfolk Island achieve, over a period of time, internal self-government as a Territory under the authority of the Commonwealth ...

Knowing these facts, should we not therefore as Australian nationals, you and I, ask ourselves the following questions: is it not protection enough for Australian nationals living both in and outside of Norfolk Island, that the Norfolk Island Act of 1979—of our Commonwealth of Australia—spells out the constitutional arrangement between these two separate jurisdictions? Is it not the Australian way to honour the commitments and contracts made in respect of Norfolk Island by an earlier Australian government in 1979? Did Australia not demonstrate its commitment to democratic process when Australian nationals said ‘No’ at referendum to Australia becoming a republic some short few years ago? Will Australia not appear to have to have double standards if it does not similarly honour the voice of the Norfolk Island people at two referenda, that the electoral regime on Norfolk Island not be changed, especially since Australian nationals—of which I am one—participated in that democratic process?

As an Australian national dedicated to ensuring that national justice prevails, that basic human rights are protected and the basic tenets of democracy are preserved at all costs, my answer must be a resounding ‘Yes.’

In conclusion—and thank you for bearing with me—it surely seems appropriate for this inquiry to record for posterity through this submission some of the words spoken on the occasion of the centennial ceremony at Centennial Park, Sydney, on Monday, 1 January 2001, when Australia celebrated the coming together, 100 years ago, of the six Australian colonies of the day. While Norfolk Island was not one of those six colonies, nevertheless her people must surely have watched the process from offshore with interest and perhaps some trepidation wondering how, in time, this process would affect them.

Let us now turn to the words of Sir William Deane, Governor-General of the Commonwealth of Australia at the evening centennial ceremony, words which rang in my ears as I sat in the crowd. I knew then that the day would come when I would need to recall them. Today is that day so I quote Sir William's speech:

Grateful pride in the commitment to democracy under the rule of law, which created our nation and which has deepened down the century. We have sealed it by sacrifice in war. We have maintained it tenaciously in peace. Few other nations can look back on a century of democratic rule unbroken by dictatorship, military coup, civil war or conquest

And, above all, grateful pride in our Australian people ... And what they were and are: their decency, their generosity, their sense of fair play; their spirit of ANZAC.

And their mutual respect and acceptance which underlie our greatest achievement, namely, the way we are making our diversity, of origin, race, culture and belief, a source of national strength and unity rather than a cause of weakness and division ...

Conscious of all these things, let us re-dedicate Australia to the ideal of unity, under freedom, democracy and the rule of law.

Let us walk together into the future with honesty, vision and determination, with Australian generosity of spirit, and with Australian goodwill and fair play.

Sir William was not the only one to speak stirring words on this occasion. The Premier of New South Wales, the Honourable. Bob Carr, also gave us words that are equally worthy of note. I repeat some of them now, because they are very relevant to the issue before us, the issue of taking note of referenda:

On this day 100 years ago ... Federation was proclaimed, the Constitution activated, and the first Federal Ministry sworn in. These were the formal and official acts of January 1st, 1901.

But before these things could occur, the people had resolved—consciously, deliberately, at the ballot-box, to bring about Federation.

New nations had been created before then.

But this was to be the first created by a vote of the people—the first time that had happened, anywhere in the world ...

The people argued about the new constitution.

that was not something new—

Then there were the referendums to approve the document. Indeed, to make the people's will doubly sure there was a second referendum, in New South Wales, Victoria, South Australia and Tasmania.

It was democracy in action.

Premier Carr continued:

Even in war, the people had enough confidence in their own judgement to say “NO” to the government...

And there was another referendum at the half-century mark of our Federation—and the people of Australia, by their votes at that referendum, rejected a call from the government to ban a political party because it was deemed to be subversive.

You can only explain the “No” vote by reference to the deep democratic instinct of the Australian people ...

So to all of you who comprise this committee, those of you here today and the other nine members of the committee—unable, for whatever reason, to come to Norfolk Island to be present at this hearing—let us conclude our discussion at this inquiry today with the foregoing words of Sir William Deane and the New South Wales Premier, Bob Carr, echoing in our minds and in our hearts, ‘Lest we forget.’ Thank you for listening.

Just to conclude, for those of you who like to surf the web and have an interest in Norfolk Island’s history, I invite you to view the New Generation web site www.norfolkisland.gov.nf/new_generation, published on 12 March 2001 as part of Norfolk Island’s celebration this year of Commonwealth Day. It was a project funded from a grant 1 on merit and awarded to Norfolk Island for its use by the international body known as the Commonwealth Parliamentary Association, a body that no doubt you are all members of. Ladies and gentlemen, thank you.

CHAIRMAN—Thank you, Ms Adams.

Senator WEST—I wondered what you believed internal self-government to mean. You used the phrase and I wondered what your interpretation of that was, please.

Ms Adams—Internal self-government?

Senator WEST—Yes.

Ms Adams—Being allowed to govern ourselves without outside interference by due process of law, due democratic process of law under the auspices of the legal entity, the Commonwealth of Australia in accordance with the constitution, the Norfolk Island Act of 1979.

Senator WEST—You would make a great public servant.

Ms Adams—The rest would be academic. I can only speak from my heart.

Senator WEST—I am interested to know what you think it entails—internal self-government—when it gets down to the nitty-gritty.

Ms Adams—Exactly what has been happening on the island since 1979, where by a very slow and steady process by cooperation with the Australian government, this island has slowly been taking over responsibility for more and more internal matters, at state, federal and territorial levels. As you would be aware under the Norfolk Island Act there are schedule 1 matters, schedule 2 and schedule 3 matters and reserve functions. The process of internal self-

government for Norfolk Island is to gradually bring—as much as the Commonwealth of Australia is prepared to give—matters that are not in schedule 2 over to schedule 2, always retaining to Australia national defence and such others as they wish to retain. That is internal self-government for Norfolk Island as was proposed in the Norfolk Island Act.

Senator WEST—What do you see should go across to schedule 2?

Ms Adams—I prefer to take that on notice in view of the fact that I also have a political master, thank you. I am here today not in any professional capacity, as I said from the outset, for very good reasons. I am here as an Australian national and a Norfolk Island permanent resident who has very strong views.

Senator WEST—You can take that on notice.

Ms Adams—Thank you.

CHAIRMAN—Ms Adams, thank you for your speech. Do you think that Norfolk Islanders are, by and large, hard done by, by the Commonwealth?

Ms Adams—Goodness me, hard done by, by the Commonwealth?

CHAIRMAN—Do you think you get your fair share?

Ms Adams—That is like asking a question in the House to which you would be ruled out of order.

CHAIRMAN—That would be a legitimate question, Ms Adams. Are you happy with the assistance the Commonwealth give Norfolk Island, or should it be more?

Ms Adams—I will take that on notice, thank you.

CHAIRMAN—You will take that on notice.

Ms Adams—I will take that on notice, yes. It is not a question that you can answer just off the top of your head. You have to really search within yourself as to how you want to answer that.

CHAIRMAN—What are the commitments that the Commonwealth made in 1979 that have been either abrogated or not acted upon? You said words to the effect ‘honour the commitments’.

Ms Adams—I did not know that I suggested that they had. My submission, if you have taken that from it, was not intended. My submission is to state quite clearly what the rules of the game are, both in Australia and on Norfolk Island.

CHAIRMAN—Do you mean in a legislative sense?

Ms Adams—In every sense of the words.

CHAIRMAN—What are the rules then?

Ms Adams—National justice, human rights, all of those things. That makes up the whole, surely. You cannot divorce them one from the other.

CHAIRMAN—Are you impinged upon by the Human Rights and Equal Opportunity Commission?

Ms Adams—No. Please, I must make myself clear. The whole basis of my submission was the dismissal of the voice of the people of Norfolk Island, the dismissal—unilateral dismissal, it would seem—of the expressed wish of the people of Norfolk Island at two referenda. It is a double standard because Australia, as far as I know, always listens to the voice of the people at referenda.

CHAIRMAN—What about the people of say, Lord Howe Island, who wanted their independence from New South Wales?

Ms Adams—You have me at a disadvantage. I did not know they did, sorry.

CHAIRMAN—Are you saying that Norfolk Islanders are special with respect to—and to some degree you are—

Ms Adams—Definitely not, I am saying—

CHAIRMAN—May I finish, please?

Ms Adams—Sorry.

CHAIRMAN—Are you saying then that Norfolk Islanders are special? You are, but that is not fully answering my question. You are special, you have special legislation, you have special conditions, you have special recognition in the constitution. Is it that which you are relying on for the referenda being not acted upon by the Commonwealth? Are you relying on the special conditions, constitutional conditions? Or are you saying, ‘The people have spoken, regardless of the constitution, and the governments have to act based on the will of the people on Norfolk Island’?

Ms Adams—I would not think so. The electoral regime is a schedule 2 matter, which is in the bailiwick of the Norfolk Island Legislative Assembly.

CHAIRMAN—Granted what schedule it is in, Ms Adams, what makes the compulsion for a government to act outside its constitution because 900 or 700-odd people, whatever it was, answered referenda questions in the affirmative and the government did not act upon that? What I am trying to say, I guess is this: is acting outside the constitution peculiar to Norfolk Island or should Kangaroo Island or Lord Howe Island or Bathurst Island or Thursday Island or any of

the islands in the Bass Strait or any of the islands in the Torrens Strait have the same ability to choose to be self-governing and alter their governing legislation?

Ms Adams—Senator Lightfoot, that is not for me to answer. That is for the Australian government to answer.

CHAIRMAN—I really was not asking the Australian government.

Ms Adams—Sorry. I just do not have another answer to give because it is not for me to answer, I am sorry. That is a matter between those places and the Commonwealth of Australia. We are only discussing here today the issue of Australian citizenship being a prerequisite on Norfolk Island.

CHAIRMAN—With respect, Ms Adams, we have asked a lot of questions, wide ranging. We have strayed right away from the commission we were given. I wanted it to be wide ranging, even though it should have been more confined, so that people did not think that we were truncating debate on what are important issues for the people of Norfolk Island.

Ms Adams—Absolutely. We thank you for that.

CHAIRMAN—What we have done is wide ranging.

Ms ELLIS—Can I ask you, Robyn, the same question I asked the previous two witnesses. I think I know your answer but I would like you to elaborate if you want to. Do you see a difference to any degree at all between the citizenship question and the residency question? Is there any difference at all?

Ms Adams—Between citizenship and—

Ms ELLIS—One of them being the Australian citizenship requirement—the two parts of the referendum—and the other question being the degree of residency required to do certain things. Do you see them as separate issues?

Ms Adams—There are people living here who are permanent residents who are not Australian citizens.

Ms ELLIS—No, but in relation to the referendum do you see those two issues as in any way separate?

Ms Adams—You have me at a loss there because I would have to be quite honest and say, unless I had the two questions in front of me now today, that many years down the track I could not answer it for you. I work from the principle of the two referenda on an issue of like ilk and the people said no. I am happy to take that on notice if you would like me to address the two issues.

Ms ELLIS—I am just curious. I know I keep repeating this question to many witnesses, but it just seems to me that some people put more import on one of those aspects than the other.

Ms Adams—Actually, my memory is taking me back. The second referendum that was held actually used word for word Senator Macdonald's words. On that basis I think perhaps the first question that was asked could be looked at as—to put it to one side in degree of importance because the main one that we can now look at today are the exact words of Senator Macdonald. That is what the people of Norfolk Island went to the polls on and voted on.

Ms ELLIS—I understand that.

Ms Adams—Apart from that, I am sorry, I really cannot comment.

Ms ELLIS—No, that is okay. It is not a problem.

Ms Adams—I would not want to comment further than that.

Ms ELLIS—Suffice to say that I am from the ACT which voted twice in referenda not to have self-government—and we have self-government. We understand. I am not saying it is right or wrong.

CHAIRMAN—Thank you, Ms Adams, for your attendance here today. If there are any matters on which we might need additional information the secretary will write to you. You will be sent a copy of the transcript of your evidence to which you can make editorial corrections. The Hansard reported may wish to clarify some details with you before you leave. I thank you again.

Ms Adams—Thanks very much.

[2.39 p.m.]

HOWARD, Mr Edward (Private capacity)

CHAIRMAN—In what capacity do you appear before the committee today.

Mr Howard—I appear as private Norfolk Island resident. I have lived here for about 30 years. I became an Australia citizen 28 years ago, here. I was, for eight years, the editor of a newspaper here, the *Norfolk Island News*. I was elected to the first Norfolk Island Legislative Assembly and served on the assembly for about eight years. During the later part of those years I was Minister for Finance.

CHAIRMAN—Although the committee does not require witnesses to give evidence under oath, you should understand that these hearings are a legal proceeding of parliament and warrant the same respect as proceedings of the parliament itself. Giving false evidence or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The committee prefers that all evidence be taken in public but if you wish you can give confidential evidence to the committee and request that the hearings be held in camera and the committee will consider your particular request. Before we ask you some questions, do you want to continue with your statement or would you like us to go into questions?

Mr Howard—I would like to say a few things if I can.

CHAIRMAN—Yes, please do.

Mr Howard—In studying your terms of reference, it seemed to me that they called clearly for a simple cost-benefit analysis. I have tried to do one. I can see four potential benefits from putting into effect the two main proposals you are asked to report on and I can see six costs of putting them into effect. The first potential benefit of putting these recommendations into effect would be the removal of an anomaly. Some people think it is very important to remove anomalies.

CHAIRMAN—From where, Mr Howard? Where is the anomaly currently? What is it? From where do you wish to remove the anomaly?

Mr Howard—The opening sentence of your terms of reference asks you to consider the consistency of Norfolk Island's electoral laws with those of other Australian jurisdictions. Clearly they are not consistent.

CHAIRMAN—That is right. That is why we are having this inquiry.

Mr Howard—So there is an anomaly there.

CHAIRMAN—Yes.

Mr Howard—You do not have to call it an anomaly but you can. Some people feel it is important to correct anomalies where they are found. Not everyone feels that way. Ralph Waldo Emerson, the American writer and philosopher said, ‘Consistency is the hobgoblin of little minds,’ but there are people who think it is important to correct anomalies and from their standpoint putting these proposals into effect would be a benefit.

The second potential benefit is that it would extend the Norfolk Island local voting franchise to a couple of hundred Australian citizens who are here at any given time for periods of a year, two years or three years. They are our schoolteachers, our policemen, the staff at the Anscan cable station and so on, or doctors or dentists. I really do not think that many, if any, of those people care much about Norfolk Island’s political and governmental matters. I think they are mainly concerned with enjoying their sojourn on the island, doing their jobs well and enjoying life in general.

In a theoretical sense it could be said to be potentially a benefit to extend the franchise locally to those people after six months of residency.

The third potential benefit is one that really is never overtly stated to us but which I think is real and that is the wish on the part of some people in the Australian governmental structure to homogenise Norfolk Island into the Australian way of life. I do not think that would be a good thing. I think it would be a harmful thing. But to the people who want that it would seem to be a benefit.

The fourth potential benefit is that it would please some people to enact these changes. It is always nice, when you can, to please people within your own governmental organisation. Those are the only benefits that I can see in carrying through these proposals. There may be others, but they are the ones that I can see. I cannot, by any stretch of the imagination, believe that any of those four is really a matter of the slightest national significance to Australia.

I can see six costs of carrying these proposals into effect. The first would be ignoring the referendum that has often been mentioned here today. Governments are not bound by referendums but it makes them uneasy, makes them hesitant to go against the grain of a clear referendum result. If these proposals were carried into effect, it would mean imposing on Norfolk Island changes in laws that the people have said, by a large majority, they do not want. My understanding is that you are here today because the Senate felt that there should have been more consultation with Norfolk Island.

CHAIRMAN—It is a joint house committee, Mr Howard, not just the Senate.

Mr Howard—Yes. I was thinking of the fact, as I understand it, that the previous bill was voted down in the Senate, with the criticism that there had not been enough consultation. My understanding was that you were assigned to carry out such consultation—

CHAIRMAN—That is the joint house committee, yes.

Mr Howard—among other things.

CHAIRMAN—That is right. That is correct.

Mr Howard—There are various ways to consult with people. You cannot seriously feel that you have consulted with the people of Norfolk Island by listening to a dozen or so of us talk to you for a while. There is one form of consultation that towers over all others by a long way and that is by having an official, properly conducted referendum. We have had one and there is your consultation. If you want to consult the people of Norfolk Island, 73 per cent of the formal votes said, ‘We do not support those changes.’ That would be the first cost.

The second cost would be that carrying these proposals out would reduce the voting strength of the Pitcairners on Norfolk Island. They are at the last census something around 45 per cent, or maybe a little bit more, of the population. It is impossible to know for sure but apparently if these proposals were to be put into effect their voting proportion on Norfolk Island could be reduced down to 35 per cent or 38 per cent. There may well be some people in Canberra who think it would be a good thing to lessen the voting strength of the Pitcairn people on Norfolk Island. I do not think it would. I think it would be a bad thing. The careful and extensive research that I have done into the Pitcairners’ occupation of Norfolk Island tells me that historically and morally this is their island. This is their primary homeland. Norfolk Island’s character has come essentially from the Pitcairners over a period of 100 or 150 years. I do not think their strength in the community should be watered down.

The next cost of carrying out these proposals would be the disenfranchising of a considerable number of people who have lived here and voted here for a long time. They are mostly New Zealanders, but there are Americans, British and others. We need those people in our Legislative Assembly. We are not a large population and we need all the good candidates for our assembly that we can find. Over the years we have had several very good assembly members who were not Australian citizens. If these proposals had been in effect then, we would have been deprived of their contributions to our self-government and we would have been the less for it. Norfolk Island would have been the less for it.

As part of the same effect of these proposals, it would seem wrong or unfair to take the vote away from people who traditionally had it; to take the right to stand for the assembly away from those who traditionally had it.

The next cost of implementing these proposals is that it would cause a shift in the Norfolk Island total electorate, away from a concern for the long-term interests of Norfolk Island and toward short-term interests. I think on the face of it that is a bad thing. On the face of it that is a step toward poorer government. It would be a cost. The next cost is that Australia’s reputation in the South Pacific would be lessened if these changes were put into effect. People in the Pacific Islands are well aware of what is happening in the other islands. They are well aware of what France is doing in French Polynesia and in New Caledonia. They are well aware of what New Zealand is doing in Niue and the Cook Islands and in Western Samoa. They are well aware of what Australia is doing in Norfolk Island.

Australia’s reputation in the South Pacific is not entirely good. Australia is sometimes seen in the South Pacific as something of a bully, sometimes seen as a bit bloody-minded. New Zealand, by contrast, has established a reputation in the South Pacific as being tolerant and supportive of the people of the islands. Forcing changes in our laws against the grain of a 73 per cent official referendum result would be seen by others in the Pacific as lessening Australia’s reputation.

The cost of putting these proposals into effect is a small but rather nice opportunity that would be lost, an opportunity for pleasant, agreeable human relations. Norfolk Island needs Australia. Norfolk Island does not need and does not want a keeper. Norfolk Island does not want and does not need a nanny instructing us on how we must behave ourselves day by day. What Norfolk Island needs and I am sure would love to have would be a relationship in which Australia acts as a wise, experienced, concerned uncle or aunt—not an uncle or aunt who would support us, but an uncle or aunt who would take an interest in what we are doing, be pleased when we seem to be doing well and be quite willing to give us some salty advice if they feel we need it. I think that kind of relationship is achievable. I think it would prove to be very satisfying to people in Australia as well as people on Norfolk Island. A wise, friendly uncle or aunt does not come visiting and say, ‘Tut-tut, you’re not doing that the way we do it back home.’ A wise uncle or aunt comes visiting and looks around and sees how things are going and if things are going well will say, ‘Gee, you’re doing well. Good on you,’ and gives a little pat on the shoulder.

When we were given a large measure of self-government in 1979, it was made clear to us that we could have it, provided we paid our own way and provided we financed our own island operations from our own resources. We have done that. There have been substantial improvements in Norfolk Island since 1979 under our own elected local government that never seemed to be possible during the long years when Australia was administering the island directly. I think the Australian government at the time had some doubts about whether we could carry it off, whether we could afford to carry it off. We have. We have increased our own taxes on ourselves very substantially. We have made very large improvements in our hospital, in our school, in our care for the environment, in our telecommunications, in our roads, in one way after another over those 22 years. I think that should be a source of pleasure to Australia. I do not think that Australia’s primary response should be, ‘Tut-tut.’

CHAIRMAN—I am going to have to finish you up very shortly, Mr Howard, because of our time.

Mr Howard—I am finishing myself up very shortly. I hope you will reflect in your own minds and I hope you will talk with other members of your committee about the fact that there are costs as well as benefits in these proposals. I think the costs far outweigh the benefits but you will decide that for yourselves. I wish you good luck in your deliberations. Thank you for listening to me.

CHAIRMAN—Thank you, Mr Howard. At what stage do you think that referenda, even when they are answered in significant proportions in the affirmative—as these referenda questions were—but at what stage, even if they are answered overwhelmingly in the affirmative, are they not accepted by a government? What I am trying to say is that anyone in Australia, any community in Australia, any state in Australia, could have a referendum and expect the government to react to it—and they do—but they sometimes react against it, but it is still a reaction.

Mr Howard—Yes.

CHAIRMAN—In 1933 the Western Australian government won overwhelmingly the referendum question as to whether Western Australia should secede from the Commonwealth.

But because there is no machinery in the constitution for secession—there was a section that allows for a referendum to be held at a later date and that was what the question was and that was 60-odd per cent—but the government of the day lost the election, won the referendum question and it was dismissed by the incoming government. What I am trying to say is, how do several referenda questions validate necessarily what citizens want if it is opposed to the constitution? You are not suggesting that any referendum held on Norfolk Island should be followed assiduously by the Commonwealth government, or is that what you are suggesting?

Mr Howard—No. First of all, I cannot see that the two proposed changes in the government's mind at the moment are required by the constitution but I am not a constitutional lawyer.

Quite apart from that, on the importance of referendums, the Western Australian and other referendums that you were talking about, are based on little local referendum laws. Our referendum law is not a little locally enacted referendum law. It was supported by the federal Executive Council of Australia and it was enacted by the Governor-General of Australia. They did so because they believed that the people of Norfolk Island should have a formal official means of making their views known about Norfolk Island matters from time to time. It was an enactment at the most senior Australian federal governmental level to allow the people of Norfolk Island to express a view. The people of Norfolk Island have done so and I think that view should be heard. I think there are costs of ignoring it.

CHAIRMAN—In answer to my question, if I can draw you out, there are some referendum questions asked that are clearly out of the scope of any government to respond to in a positive way.

Mr Howard—Of course.

CHAIRMAN—You were saying that Norfolk Island does not want a keeper.

Mr Howard—Yes.

CHAIRMAN—You went on to qualify that by saying 'a nanny'. Are you saying that you would handle your own foreign affairs and defence here? Is that your way of saying that your armed services should be raised from Norfolk Island?

Mr Howard—Of course not.

CHAIRMAN—What did you mean by saying you do not want a keeper in that sense then? You are saying that you are quite happy to have the mainland supply the umbrella as a protective device for Norfolk Island—and handle foreign policy as well?

Mr Howard—It is advantageous for Norfolk Island to be able to have Australia do that. I think it is to Australia's advantage to do that. I do not think Australia wants Norfolk Island rolling around in international affairs like a loose cannon.

CHAIRMAN—I do not think the island is going anywhere, Mr Howard. But you meant in foreign policy terms.

Mr Howard—Yes, in international dealings in foreign affairs, clearly Norfolk Island has no role. It would be a comic act. The notion of Norfolk Island becoming a member of the United Nations is laughable.

CHAIRMAN—I will draw you out. When you said that you paid your own way here—

Mr Howard—Yes.

CHAIRMAN—I was under the impression—and I think the evidence is overwhelming—that, in fact, it is a mendicant territory and is depending and will depend for some time on grants or even non-interest bearing loans from the Commonwealth.

Mr Howard—I am stunned and shocked to hear you use the word ‘mendicant’. The Department of Home Affairs, during the Nimmo report days, cooked up a figure which, as I recall, was 4.2 or 4.28 million dollars a year, which they said it was costing Australia to have Norfolk Island. I know something about numbers. Those numbers were baloney; they were cooked. But they stuck and they have been dredged up from time to time about how costly Norfolk Island is to the Commonwealth. They just do not stand up if you look realistically at what the inputs and outputs are financially.

Norfolk Island gets no regular grants from the Commonwealth. We do not participate in the income taxation paid to the Commonwealth, the Commonwealth paid back to the states cycle that exists in Australia. Australia has paid for a number of useful and good things here on Norfolk Island. Australia has spent considerable money in protecting our national park. It has spent considerable money in helping to restore the old wonderful buildings down at Kingston. We have also shared in those costs. I do not see the expenditure of that money as giving Australia any political entitlements over Norfolk Island. Judge Nimmo thought it did. If you read his report he said:

Clearly, Australia is paying the main costs of governing Norfolk Island and, therefore, it is only right that Australia should say how Norfolk Island is governed.

I do not think you buy political rights by making contributions. We are glad usually to have Commonwealth help on things that, for Commonwealth reasons, you decide to spend money. I do not think we require them. We have our own fiscus, our own bag of money, that we operate with. We are not part of Australia’s fiscus. For 22 years we have stayed in the black. We have no national debt—with rare exceptions.

CHAIRMAN—You have had a balanced budget every year since 1979.

Mr Howard—No, we have not, but we have savings in the bank from past years on which we can draw when we have a bad year.

CHAIRMAN—So you have surpluses?

Mr Howard—Yes, sometimes.

CHAIRMAN—When you do not, you draw on your reserves to make sure that you balance your budget.

Mr Howard—That is what we have done so far, although that is not really balancing the budget.

CHAIRMAN—All right, Mr Howard. You are no relation to that other Howard, are you—John?

Mr Howard—I understand there is one.

CHAIRMAN—Yes. You are a little taller than what he is, though.

Ms ELLIS—Far more thoughtful.

CHAIRMAN—I do not subscribe to that at all, Mr Howard. I want that on the *Hansard*. I do thank you, Mr Howard, for your contribution—and a very considered contribution—this afternoon. I am obliged to read one more paragraph to you, and I want to thank you again. If there are any matters on which we might need additional information, the secretary will write to you. You will be sent a copy of the transcript of your evidence, to which you can make editorial corrections. The Hansard reporter may wish to clarify some details with you before you leave. On behalf of the committee, I thank you once more.

[3.11 p.m.]

QUINTAL, Ms Denise Marie, Founder, ECO Norfolk

CHAIRMAN—The committee welcomes you to this hearing. Although the committee does not require witnesses to give evidence under oath, you should understand that these hearings are legal proceedings of parliament and warrant the same respect as a proceeding of parliament itself. Giving false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The committee prefers that evidence be taken in public, but if you wish to give confidential evidence to the committee, you may request that the hearings be held in camera and the committee will consider your particular request. Before we ask you some questions, do you wish to make an opening statement?

Ms D. Quintal—Yes, I would.

CHAIRMAN—Please proceed.

Ms D. Quintal—My background is that I am of convict descent. My ancestors were born here and lived as free settlers on Norfolk Island.

CHAIRMAN—Can you put a year to that?

Ms D. Quintal—I think it was in the 1700s, the late 1700s and left here not of their own wishes, but the second penal settlement closed down and they were actually transferred to New Norfolk and Tasmania. I also have a son of ancestral Pitcairn descent and I have two grandchildren who live in Australia and are of Australian descent/convict descent/Pitcairn descent—a bit of everything. I have sat here today and listened to a number of issues. There were issues of course that saddened me as well as made me happy. I think a number of people today have expressed the conflict that is there between the issue of Australia and Norfolk Islanders of Pitcairn descent. But one has to ask oneself, where do the in-betweeners fit in; those that live here and participate here and feel it is their homeland as well?

A number of Pitcairn descendants have commented to me—not all, of course; there is a diverse view by a number of Pitcairn descendants—on how they see themselves. Some feel that they are of Australian origin; others feel that they have origin within Norfolk Island, being this is now their homeland and it is the homeland of the Pitcairn descendants. I have even had others say to me, ‘If it is the homeland of the Pitcairn Islanders, then they should go back to Pitcairn Island.’ There are a number of views, all conflicting. Maybe we will never ever work it out.

But whilst we are not working it out and whilst we are spending a lot of time and effort fighting one another, we are all consuming around a kilo of waste a day. Currently we are dumping that into the sea and into the ground within the island. Whilst we all sit about fighting it out and figuring out where we are all going, we continue to pollute the soil and the sea. If we are considering the concept of being universal, then I think we have to consider maybe consolidating things at the moment and maybe even leaving the status quo and just getting on with repairing damage and maybe also doing a bit more consultation.

I listened with interest that there were 12 on your board and only four or three arrived. That saddens me, too. Maybe we could all just sit down—and maybe you could all come, or we could go there—and have more round table consultation on this very important issue. I do not deprive any Pitcairn Islander of their right to believe they belong here. I believe they all feel caringly about the soil and the water and the air they breathe and so do a lot of others who have lived here or have come here or still can pass their lineage on to Norfolk Island. I suppose we can all say we are humans on the planet Earth and if we all went back to the day dot, we are all just humans so we could get away with worrying about who belongs where. We are all vacating a spot, or living in a spot on the planet at the present moment.

But the major issues that concern me at the moment are possible law suits and concerns for the health and safety of the Australian and New Zealand tourists and Australian residents, Norfolk Island residents and those of Pitcairn descent, because we have at the current time around 3,000 people on any given day. We have asbestos coming off rooves of homes with little or no occupational health and safety in place. This hotel we are sitting in today had guests staying in-house last week when the roof was coming off. None of the men had protective clothing on and a letter had to be written to the then Minister of Environment.

There was also a roof close to the school and the child care centre, including a take-away food bar and residential homes, which was removed without any public advice. There has been dumping of cracked and frayed asbestos into the sea and it is received by the tip operators with no protective clothing or advice to the public of the actions, with little or no guidelines in place. The local government seemed to be able to amend the Tourist Accommodation Act a number of times but cannot amend the planning act to cover these actions.

CHAIRMAN—Ms Quintal, sorry to interrupt you, but I do not know whether you are leading into what are the terms of reference here. I have allowed debate to be fairly wide ranging but I think what you have said to date has gone outside even that largesse that we have allowed.

Ms D. Quintal—Would you like to ask me some questions and I can present this to you later?

CHAIRMAN—Yes. I am happy if you are going to steer that towards the reference we have been given and that is the two questions of whether Australian citizenship should be a requirement for eligibility to vote for, or be elected to the Legislative Assembly; the second question was the time period before which an Australian citizen, resident in the territory, can enrol to vote for the local legislature. If you are saying that the legislature needs more strength in it so that it can address these areas you are talking about, it sort of impinges upon it. I do not want to stop you from talking, I welcome it in fact, but it might just be a little bit outside our terms of reference.

Ms D. Quintal—I understand. I think that to answer (a) one would have to ask the question first: who belongs here and who has the right? I do not think you have even come to that decision yet. Everybody is fighting over it, so how can you answer a question when you really cannot even make a decision on who belongs here and who actually owns Norfolk Island and where it is going? I think in fairness to all parties it is going to have to be something that is worked out first.

CHAIRMAN—You have quite a vested interest in Norfolk Island's future: grandchildren, children, yourself. How do you see the electoral system here? Do you think, 'If it ain't broke, don't fix it'? Or are you of the opinion that it does need some remedy or fairly serious surgery?

Ms D. Quintal—I think that if we are Australian—and 'if' we are Australian is the thing I'm saying, and 'if' is a small word with a big meaning—then I think we should have the word 'Australia' inserted into (a) under the qualifications for election. I cannot now, after listening today, answer that because I do not think either party seems to know who actually Norfolk Island belongs to. Does it belong to those of Pitcairn descent? If rightfully so, as the Pitcairn descendants have mentioned today—that it is their island—and you are impinging on their rights, I think that has to be found to be correct. If it is correct, then they have the right to choose what they want. But if it is maybe something that is not the case, that has to be sorted out as well. Then, if that is not the case and Australia owns it, as you perceive, then that answer would automatically come in as Australia.

Senator WEST—From our questioning do not assume any positions that we, as a committee, may have or may arrive at. What we are trying to do is on occasion play devil's advocate.

Ms D. Quintal—I understand, Senator.

Senator WEST—To pose difficult questions, to pose contentious questions, to draw out as many positions and as much information as we can. Do not make any assumptions as to what our positions might be and what will be in the report. We are just lining up questions because we think particular issues need to be canvassed a bit more.

Ms D. Quintal—Obviously it does need canvassing a bit more because no-one can work out even who owns Norfolk Island.

Ms ELLIS—Where do you see it?

Ms D. Quintal—Because I think a lot of us came here in the sixties and a lot of people bore children of Pitcairn descent—there are a lot of Australians and there are a lot of New Zealanders—I think at the moment no-one seems happy with the situation as far as it is becoming very expensive with the cost of living for the young. They cannot seem to find the finance to buy land so we could lose a generation or two. An example of that is, my grandchildren are of Pitcairn descent but they actually are Australians by birth. What happened was that my son was granted crown land which was given to him by his father and myself, who was of Pitcairn descent. It was handed to us by his father who was of Pitcairn descent. Prior to that, that land was owned by convict descendants. If my grandchildren wanted to come back in 10 years to live here and reside on that property and if it was handed to them, they could not take that property because of the second generation policy.

So those of Pitcairn descent are losing what I felt was supposed to be the most important part of their whole lifestyle, which was their land—which I struggled to keep, by the way.

Senator WEST—Can you explain what the second generation policy is that you are referring to?

Ms D. Quintal—On crown lease if you are not a resident you cannot actually hold the leasehold land. My grandchildren were born in Australia and live there at the moment due to the fact that my son and his partner have separated. Maybe I am about 10 years earlier than a lot of people my age because I had my son young, but I feel the same issue is going to occur for the Pitcairn descendants as well. An example is that Mr David Buffett's children do not live here. David's son has had a child and he does not live here. They live in Australia. If David had crown lease land and in maybe another 15 years his children came back to stay, at the moment under the current situation they could not take that crown lease. They are annihilating their own kind.

Ms ELLIS—Who owns the crown lease in your family at the moment?

Ms D. Quintal—My son.

Ms ELLIS—But he is not resident here.

Ms D. Quintal—Not for the last five weeks. At this stage he now has to either apply to the Commonwealth of Australia to be away and to rent the house, or he can come back and stay in that home, or he can lease it to a general entry permit holder, or a resident. But if he wants a TEP there he must actually apply to the Commonwealth of Australia for that to occur and they would grant it to him if they felt it was a fair thing.

Ms ELLIS—Thank you.

Senator WEST—Do you think the issue of the electoral reform is the highest priority issue this island is facing?

Ms D. Quintal—No, I do not. I think the electoral situation at the moment is an important issue, but I think there are huge issues facing the Norfolk Island people and the government, mainly in the area of environment. We have hideous issues that have to be addressed. I think a lot of us are going to have to work in a voluntary capacity to try to achieve a better quality of life before many of us end up very sick.

Senator WEST—Where in the scale of priorities would you put the electoral matters? What would you put above it? Can you give me a priority listing of what you think are the most important issues and where electoral matters fit in that list of issues?

Ms D. Quintal—I would like to take that on notice.

Senator WEST—That is fine. That is probably the best way for you to handle that. Also, some indication as to how you have come to that particular order of priority would be appreciated, thank you.

CHAIRMAN—What do you think prompted the strident opposition to the proposed changes to the electoral system in Norfolk Island by the federal government? If it was not a priority, what was it? Was there an ulterior motive there on either side? Why was it so diametrically opposed with the 70-odd per cent? Quite an effective answer.

Ms D. Quintal—A lot of the time here within the island we have issues which arise and sometimes they can be placed into a situation where people do not understand. The general public do not understand the questions. They can be put in such a manner or given with such conviction by certain persons who might have agendas that might not necessarily be for the good and wellbeing of the people. Then, of course, the tactic could be for them to perceive that Australia is trying to take them over and they will be aligned with everything that Australia has to offer.

By the way, in your question about allowing TEPs to vote here, I think asking for them to be able to vote after six months is not a good thing. I think you have to be here for a period of time to understand the island.

CHAIRMAN—What about the question of Australian citizenship?

Ms D. Quintal—Again, we go back to what I said to you. Until you have figured out who this island actually belongs to, you cannot ask anybody to answer that question. It is like putting the cart before the horse. The major issue here today, as I listen, is that there are a number of people in this room who really genuinely believe this island was given to them by Queen Victoria. They have asked you to please go away, please do not change the electoral situation. These people have gone to the United Nation. These people believe it in their heart. They must be able to look me in the face and say, ‘You are not a Norfolk Islander,’ because after listening today, I am not a Norfolk Islander.

CHAIRMAN—But you have told the committee you are; you are a Pitcairn descendant.

Ms D. Quintal—Yes, but that does not mean anything because the actual truth of the matter in their hearts is that it all started with them arriving here. If that is the case and they really genuinely believe it, how can you make a decision based on something that these people really genuinely believe—and deny them that belief—unless you can prove it?

CHAIRMAN—Do you consider yourself like those we have had evidence from today—that Pitcairners here are indigenous to Norfolk Island?

Ms D. Quintal—I think it all becomes Pandora’s box. I go back to saying to you that I believe in a more global thought, where we are all people on the planet Earth and we are all taking up a spot. If you move away tomorrow someone will take yours. I think a lot of the children of these people of Pitcairn descent live on the mainland. Another example is, say, Ron Nobbs, the Chief Minister: all his children live on the mainland in Australia.

CHAIRMAN—That is not a criticism.

Ms D. Quintal—No. They might come back here in five or 10 years and reside, but then Ron might go back over there and live or reside. The freedom that is really given to us at the moment is that we can go between one and the other. But if that was taken away—what you were saying earlier—and we put the shoe on the other foot, where the people of Pitcairn descent were not given the same rights of education or exchange and they had to go through certain curriculums, say, in Australia, 900 days before they could vote, or they could not use the systems that are there now to their advantage—to win one might lose another for everyone. While we are all

working that out we are wasting a kilo of waste per person per day as we are all sitting here. It is all getting thrown into a hole, or over into the water and we will all just keep going on because no-one wants to take any money for environmental issues, or fix up the rubbish, or work it all out any other way because they are too frightened if they take the money they will perceive that you are trying to take them over. At the end of the day, if that is what you really want to do, either do it and see if they will really get angry, or leave them alone and help them.

It is not so easy to solve. It is like the Gaza Strip. We could be waiting here for another 30 or 40 years and meanwhile the island is just going down, down, down until maybe they all have to leave because there will be no natural resources left. There will be no underground water. There will be no good soil left to even grow any vegetables. They will all just have to pack up and leave and it will just become a national park.

CHAIRMAN—Easter Island without the statues.

Ms D. Quintal—Absolutely. There are the statues at Kingston, which are from the first and second settlement. There is so much to offer for everyone on this island and everyone can have a piece of the action, but I really think at the moment we have to consider the most vital issue and at the moment it is the environment. We could be spending years here doing this.

CHAIRMAN—I think you have made your point, Ms Quintal.

Ms D. Quintal—Thank you.

CHAIRMAN—I do thank you for your appearance here this afternoon. If there are any matters on which we might need additional information the secretary will write to you. You will be sent a copy of the transcript of your evidence, to which you can make editorial corrections. The Hansard reporter may wish to clarify some details with you before you leave. On behalf of the committee, I thank you again for your appearance.

Ms D. Quintal—Thank you.

CHAIRMAN—Ladies and gentlemen, we have one more witness who has requested to give evidence in camera, but before you disperse I do have here some contact details if any of you wish to give further evidence, written or by other means. You are quite welcome to come to the table and obtain the necessary detail, including email, phone, fax and the address at Parliament House in Canberra.

I certainly thank you for your attendance and your patience here today, ladies and gentlemen. Thank you, one and all.

Evidence was then taken in camera—

Committee adjourned at 4.09 p.m.