



**NORFOLK ISLAND LEGISLATIVE ASSEMBLY
13TH NILA HANSARD – 23 JUNE 2010**

PRAYER

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

Thank you Honourable Members. If you would like to remove your coats, please feel free to do so and make sure your mobile phones are turned off

LEAVE OF ABSENCE FOR MRS RHONDA GRIFFITHS

MRS WARD Thank you Madam Speaker, I seek leave of the House for Mrs Rhonda Griffiths

SPEAKER: Thank you Mrs Ward. Honourable Members, is leave granted? Thank you. Leave is granted?

NOMINATION OF ACTING DEPUTY SPEAKER

Honourable Members, in accordance with standing order 9, I have to advise that I have nominated Timothy John Sheridan to act as Deputy Speaker when called upon to do so and I table the instrument of nomination.

PETITIONS

We move to the matter of petitions. Are there any petitions this morning?.

GIVING OF NOTICES

Are there any notices today?

QUESTIONS WITHOUT NOTICE

Are there any questions without notice Honourable Members

MRS WARD Thank you Madam Speaker my question is to the Minister responsible for the Environment, Mr Sheridan, will the Minister advise how the utilisation of Forestry men and machinery for the RESA project will affect the Conservator's performance based budget objects for the 2010-11 year

MR SHERIDAN Thank you Madam Speaker and thank you Mrs Ward for that question. The effect of the Forestry work programme on their performance budgeting shouldn't be affected to a degree because as you will have noticed the first year of the performance budgeting is a bit of hit and miss, and when I say that I don't mean it's all up in the air, but it's the first year that they've done this sort of programming and with the forestry machinery working in the RESA project down there it is envisaged that it would only take along the lines of two months depending on the weather for that to be completed, so they don't envisage that the impact on their programme will be significant. Other than that Mrs Ward I can't really say too much

MR KING Thank you Madam Speaker, a supplementary question, can I ask the Minister what Plans of Management for public reserves have been targeted for implementation in this coming financial year

MR SHERIDAN Thank you Madam Speaker I will take that on Notice and actually get back to the Forester to see exactly what areas of which reserves he intends to take on board. I do know that the Ball Bay Reserve is targeted for this year and there is funding in the Caring for Our Country for funding but if that money is not forthcoming then there is a reduced programme that they have planned for the Ball Bay Reserve. As to the actual works in each other reserve I would have to take that on notice and get back to Mr King

MRS WARD Thank you Madam Speaker. A question for the Chief Minister. It has been suggested by Members of the community that the former Secretary to Government is currently representing or involved in Norfolk Island Government business. Does the former Secretary to Government officially or unofficially represent the views of the Norfolk Island Government, I think particularly in relation to the Territories Law Reform Bill in Canberra

MR BUFFETT Madam Speaker, the former Secretary to Government doesn't have a formal role in that particular process that you are referring to; however, having said that, all Members will know that there are a number of interested people in various parts of Australia and indeed in Norfolk Island who make comment to us, would want to indeed assist us, in some of the processes that we are going through and that person has been a participant in that context as have others. That's not a formal engagement. I need to mention that in terms of the Territories Law Reform Bill

MR KING Thank you Madam Speaker, a supplementary question, can I ask this, is he remunerated in any way

MR BUFFETT Not that I'm aware. I've not authorised any payment. I would like to add to that. I would like to give credit to people who would want to assist us. Mr King mentioned the money. And people do this not necessarily for the money. We have a number of interested people in our place and they have given in many instances voluntary advice and voluntary services over a long period of time. I'm not just talking about this particular instance and now that somebody has raised it, I would like to give credit for it and may I do so Madam Speaker

MRS WARD Thank you Madam Speaker my question is to the Minister for Tourism. Last week the Minister stated that the Airport Manager had put forward a Management Plan to take into consideration the meeting of specification and correct engineering processes for the RESA project. Is the Minister able to table that document

MR NOBBS Thank you Madam Speaker, the Airport Manager certainly put together a technical specification that enabled the Budget Review Committee to make an assessment moving forward and I think the basis of this document was also discussed and communicated to CASA. I am happy to table the presentation that was made to the Budget Review Committee which contained pretty much the entirety of that data

MR KING Thank you Madam Speaker, may I ask the Chief Minister whether in the light of recent events, what additional measures will be taken to discover the extent of rotting telegraph poles and the degree of risk to workers within the community

Australian Consultants in particular, contractual monthly fees that are paid by the Norfolk Island Government Tourist Bureau. Can the Minister please advise this House what contractual arrangements are in place in Australia in particular and what amounts of money is committed and will probably be committed in the future to these agencies

MR NOBBS Thank you Madam Speaker off the top of my head I think the engagements involve DVI, Match, Public City, and in New Zealand there is another group involved there. There are monthly retainers on their engagements and what I might do is prepare a table on that to give a clear indication to Mr Snell in particular about what those payments are and particularly what they are about in delivery to Norfolk Island tourism and I say that in particular following the recent visit from the General Manager for the Norfolk Island Government Tourist Bureau to these operators to spell out exactly the performance that we need from them, which they are agreeable to do to ensure that we are paying for a service that is delivering the best outcome for Norfolk Island in terms of tourism

MR SNELL Thank you Madam Speaker a supplementary question if I may. Mr Nobbs are you aware of any other contractual arrangements which the Norfolk Island Government Tourist Bureau has committed to over the last seven years maybe in relation to activities both in New Zealand and on Norfolk Island. Could you also include that in your response to the House

MR NOBBS Certainly, thank you Madam Speaker and thank you Mr Snell for the question. Yes there is engagement with the New Zealanders as I spoke about earlier and we are within the next several weeks seeking to clarify their roles and ensure again that we are getting performance and measureable performance out of them and a benefit to Norfolk Island Tourism out of New Zealand as well. With regard to on island contracts I would have to do some research on that. As far as I'm aware certainly there is one operation that collects the survey results and collates that data and puts it together in a spread sheet form for the Bureau locally

MR SNELL Thank you Madam Speaker could I please direct another question to the Minister for airlines and could the Minister please advise if any cost saving initiatives have been considered to reduce the budget deficit which again according to the revenue fund financial indicators of May, the airline is continuing to lose money. Could the Minister please advise if there are any initiatives introduced by the Airline Board and the Airline General Manager to reduce the deficit?

MR NOBBS Thank you Madam Speaker as I've said before the Tourist Bureau, the Airline Chief Executive Officer, the Tourism Board and the Airline Board are all mindful of where we are going in terms of tourism and doing our best to promote and increase numbers where ever absolutely possible in terms of tourism arrivals. In that consideration the fine line that the airline follows is one were discounting is obviously a consideration as a means to encourage more visitation. However, any of the discounting that we consider and the Airline Board only recently considered a new programme of continued discounts, those discounts obviously impact on the budget. The budget that is forecast for the 2010-11 is around the \$1.56m from my recollection and that's in loss. However that is a significant improvement on the scenario that is portrayed for this year which looked at a worst case scenario of a \$3m loss which the board and the Airline Chief Executive Officer have managed to keep to around \$2.56m deficit. Having said that, I reiterate what I said at the start, that any consideration for discounted fares obviously impacts on the terms of the airline, and obviously effects the bottom line so the consideration is a) the budget of the airline but b) the overall economy of Norfolk Island and what the arriving tourism numbers will impact on the broader economy rather than only looking at the airline budget

MR SNELL Thank you Madam Speaker if I could ask a supplementary question of Minister Nobbs. You have indicated the initiative of lower

airfares. Can the Minister ask the CEO of the Airline if there are any other areas that the CEO considers that cost savings could be initiated to try and reduce this huge deficit that the airline is incurring at the present time and could he please submit a further proposal to the House or to yourself for referring to the House on other areas of cost saving other than just the reduction in the airfare

MR NOBBS Thank you Madam Speaker and thank you Mr Snell for the question, I can point out straight away that the CEO of the airline has endeavoured to look at other cost savings and they've also been brought to the Airline Board. They're at an early stage with regard to discussions with Our Airline in terms of basing an aircraft and availability of aircraft for Our Airline to increase its charter options outside of Norfolk Island and how that might reflect on reduced block hour rates and the like to reduce our bottom line so its centered on both sides of the line there

MR KING Thank you Madam Speaker, this is in the nature of a supplementary question to Mr Nobbs. Mr Nobbs recently reported a positive outcome in relation to the second person flying free packages that were out in the market place in June and he reported the sale of 604 packages. Can the Minister elaborate on that, and inform Members and the community if the 604 amount to 604 second persons or 604 times 2, 1208 or whether that 604 relates to tourists or residents. That's a bit clumsy, sorry about that

MR NOBBS No. No. I can actually see the clarity of the question there thank you Mr King. There naturally enough is a resident or local take up of some of these fares. From my last discussion with the CEO of the Airline there were some 200 odd local residents had taken up that particular offer and when the airline does put these offers out we do quite often get approaches to say why is it not available to locals, however, I will match that by saying that as we move forward there are going to be some fare structures that we offer that will be merely about increasing visitation and not about providing the same fare across the local market. The further part to this question is, I think the current number of those packages is in the vicinity of 800 and the 800 is the 800 of the two for one packages so 800 travellers as I understand it

MR KING So 400 of those are flying free

MR NOBBS Correct. Less taxes so yes, the second person flies free but with the inclusion of the package to travel

MR SNELL Thank you Madam Speaker a supplementary question if I can in the same vein to the Minister. Mr Nobbs the public and myself are of course aware of the positioning flights to and from Brisbane which leaves here on Sunday and returning on a Tuesday. We understand that the cost of the positioning of those flights back to Brisbane is at the expense of Our Airline but has there been any indication or any requests made from Norfolk Air for the possibility of selling seats for using that flight to generate revenue for Norfolk Air. Has there been any investigation into whether it's feasible or not

MR NOBBS Thank you Madam Speaker and thank you Mr Snell for the question. There have certainly been wide ranging talks on the basing of the aircraft, the relocation process for the aircraft and the like. It is worth pointing out that in the relocation of the aircraft, that for availability for charter work within Australia, for us to load passengers on we would also have to load an air crew on and satisfy all the other requirements including cleaning, catering and the like and at this stage there doesn't appear to be enough justification for that additional cost on the budget. Certainly we'll keep reviewing those options however

MR SNELL Thank you Madam Speaker another question to Mr Nobbs. Mr Nobbs last year a contract invitation was issued to people on both Norfolk

Island and overseas for the catering contracts for Norfolk Air. The catering contracts and expressions of interest were offered as per the applications. Can the Minister please advise if there has been any detail or any issue of results from those enquiries for the catering contracts for Norfolk Air

MR NOBBS Thank you Madam Speaker and thank you Mr Snell, the catering contract has gone through quite a lengthy and deliberative process which I think originally started as an expression of interest process, it's gone through the expression of interest process, it has then become a submission for tender process, the tenders have been submitted, they've been considered at the various levels including the corporate management group and that file from the corporate management group with their recommendations have now come to our offices, as in the office of the executive, so that we can assess it and have a tenders committee meeting to finalise the proposal or if absolutely necessary seek any further data but I would certainly be hoping that we would be able to finalise that this Thursday at the Tenders committee meeting

MR KING Thank you Madam Speaker, can I ask a question of Mr Anderson who has responsibility for Immigration, in what way does the Minister propose to alter Immigration policy to facilitate an increased new investment through the Immigration process

MR ANDERSON Thank you Mr King for the question. I have not yet had the opportunity to consider any of the existing Immigration policy. That includes those relating to stimulating new investment, as I've been somewhat preoccupied with the budget. I'm aware of rumblings in the community in relation to problems generally with Immigration and it's probably more productive to deal with those first and would probably bring me to bring about improvements in the economy before investors would be in any way interested. The policy as it exists will receive my attention when as one of my many competing priorities, as soon as time permits

MR KING Thank you Madam Speaker, a question for the Chief Minister, and the Chief Minister may wish to take the question on notice and I'm quite happy if he wants to do that, and I'll put it on the paper for the next meeting but I am interested to learn to what extent community Members of statutory or even ad hoc Boards or committees are indemnified against any personal loss or damage arising from their official duties

MR BUFFETT Madam Speaker I think I probably will take that on notice. I just make mention of one factor however, there is an arrangement within the Administration which sets out indemnification in various spheres. What I'm unsure about is whether it actually tackles the area that Mr King has referred to. But I'm very happy to walk through that and see if that is the case. There may be a related matter which I just mention and it relates to insurance as well for people who may be involved in that particular area and I will dovetail those two together to try and give you a more full answer to that

MR KING Thank you Madam Speaker, I have another for the Chief Minister if I may. Can the Chief Minister inform the House of any progress in establishing direction for his Government particularly in reaching agreement on legislative and administrative priority

MR BUFFETT Madam Speaker the governmental process to date has basically been this. This is a rather long answer to Mr King's question but I think it needs to be seen in this context. He has raised this matter with me before although not necessarily this morning. Members will know that at the commencement of this Legislative Assembly one of the assessments was that the various areas that really in a general sense needed attention in the island and there were four of those various areas. One was the financial area, one was obviously in the area of principal industry that we

have and examining any other areas of industry that may be prospective for us, that's the second area. The third area was to deliver services to the island and the next area was really to ensure that we have a continuing and a balanced relationship with the Commonwealth Government and you will recognise those as the four Ministries that have been erected. Given that we have progressed and we had a series of briefings within the Administration available to all of the Members not just to the executives so that everyone would have an overview of a) the spectrum that we need to cover and are covering at this moment, and also comments about where we sit on how things area. Not all Members participated in that and some Members participated as they were able and beyond that of course we have now just entered the budgetary process to erect a new budget in the life of this Legislative Assembly and during that process there were a series of budgetary bids. All Members were invited to be present in that process and not all attended that I might say, and there was the opportunity for any Member who wanted to do so. So in terms of all of the nine of us, there was that spectrum. We have now put into place a budget that the Minister for Finance has presented at our last sitting and we will look at in its finality today in preparation of the 1st July to commence the new financial year. Now you will see from all of that, that it spreads out where we examined what we have and then are able to make some assessment as to how we are able to move forward. It's already been identified with the present budget that it is basically a maintenance budget given the financial circumstances that this community and wider parts of the world experience at this moment. Given all of that we are able to assess and I've already talked to my Ministers about this, where we are able to go not only in this financial year which is starting to be spread out in the budget, but also where we are in a practical sense, able to proceed for the next three years, that is the life of this Legislative Assembly. That really comes to the answer that Mr King as raised in terms of the question. Where are we going, what is the arrangement for our legislative programme because coming out of that will be the need for various pieces of legislation and that is really what is being worked upon at this time given the background that I have endeavoured to outline for us

MR KING Thank you Madam Speaker, a final question for Mr Sheridan if I may as the Minister with responsibility for roads. I would ask if the Minister could undertake to publish his roads programme for 2010-2011 in the interests of the community knowing what the roads priorities will be

MR SHERIDAN Thank you Madam Speaker, and thank you Mr King for the question. I will certainly do that and I will I put them in the form of a press release and advise the community as to what roads etc or work will be undertaken by the Works Department

SPEAKER Thank you Mr Sheridan. Any further Questions Without Notice. We move then on to Questions on Notice and I'll move through them in the order in which they appear on the Notice Paper

QUESTIONS ON NOTICE

MR BUFFETT Thank you Madam Speaker. Question No 22 from Mr King asking – Is it a fact that Federal Minister O'Connor's letter of 1 June 2010 which the Chief Minister has indicated was sent as a result of his recent trip to Canberra, made no reference at all to the Canberra visit and that no undertaking to review the Territories Law Reform Bill was given by the Federal Minister as a result of recent Norfolk Island Government representations in Canberra? Madam Speaker Minister O'Connor's letter referred to in the question made reference to various representations, initiated by the Norfolk Island Government on the Territories Law Reform Bill. Our representations to him obviously. There were obviously also representations to the Joint Standing Committee. His letter indicated he would review the Bill. His letter did not refer to my Canberra discussions with him although the letter was dated after those discussions but at those discussions with the Minister he equally said he would look further at the Bill

given our discussions and given our correspondence and its become no doubt at all that he has done these things, however he hasn't changed the Bill in a way that I'm able to discern and in a moment I will make a statement about the Territories Law Reform Bill. In fact there's no reason why I shouldn't do it now I think as an adjunct to that particular question.

The Territories Law Reform Bill which is referred to in that particular question of 2010 passed the House of Representatives on Monday just passed, the 21st June 2010. Mr Kiernan the Shadow Minister, Mr Debus a former Minister, Mr Neville, Mr Gray, Miss Ellis, Minister Brendan O'Connor all spoke on the Bill and I'll table a House of Representatives Hansard of those particular proceedings. The Norfolk Island Government of course continued its efforts to make amendments to be heard in the Senate and Mr Kiernan, the Shadow Minister reserved the right to propose amendments in that Chamber.

MR SHERIDAN Thank you Madam Speaker Question No 23 posed to myself from is can the Minister advise the basis on which the Social Awareness Committee is formed and the basis on which it operates, and the extent, if any, of any overlap with the statutory functions of the Social Services Board? The Social Awareness committee was initially formed in January 2001 by Ron Nobbs the then Chief Minister and its an ad hoc group and was initially called the DAA group, the Drug and Alcohol Committee. As I said it was an ad hoc group brought together representing various elements on the island to deal with substance abuse that was the initial intent of this group. Since then the name of the committee was changed from the Drug and Alcohol Committee to the Social Awareness Advisory Committee (SAA) to take into account the wider social issues that these people consider. The committee continues to make recommendations to myself in an advisory capacity on social issues but has no statutory functions or powers and there is certainly no overlap with the statutory functions of the Social Services Board whose main function is to consider and make recommendations to myself concerning claims in regards to that area, so as you can see its an ad hoc group that's come together and its been operating for some years and they come up with some recommendations and one of their recommendations initially was for the counsellor and that was the forefront of the counsellor being introduced to Norfolk Island and I hope that satisfies Mr King's question

MR KING A brief supplementary question Madam Speaker I had no wish in any way to denigrate the Social Awareness Committee at all, I'm just concerned about administrative overlap and additional expenses. The Minister appears not to be aware that the Social Services Act establishes a function for the statutory board to advise the Minister generally in respect of social welfare in Norfolk Island

MR SHERIDAN Thank you Madam Speaker yes that is correct. In addition, the function of the Board is to make recommendations in regard to social welfare in Norfolk Island, the likely cost of any extensions of the benefit under the Act and the operation of the Act in general but I see in that sense that they are talking about the social welfare, I suppose you can incorporate the wider issues of drug and alcohol abuse, counselling, what else do they do, they introduced or recommended provisional Quit Smoking campaigns, Sport and Youth programmes and services, the use of sniffer dogs by Customs, provision of counselling service, Crisis Lines. Some of these areas go outside the parameters of the functions of the Social Services Board so I think it was just an adjunct to that Board, or not to that Board but a group of like minded people who would like to see services and services that are available in Australia, especially Crisis Lines etc, that the Social Services Board would not normally consider and I would just like to say that the Community Services manager is the secretary to that ad hoc group and copies of the minutes are provided to me after each monthly meeting

MRS WARD Thank you Madam Speaker is any Member of the Social Services Board also a Member of the Social Awareness Committee or vice versa

MR SHERIDAN Thank you Madam Speaker. Mrs Ward I would have to take that on notice because I don't know exactly who the Members of that Social Awareness Committee are. I'll take that on notice

MR ANDERSON Thank you Madam Speaker. Question No 24 from Mr King is in two parts. Is it a fact that a statutory officer of the public service is required to exercise his or her own independent discretion and judgement in making statutory decisions; and is it a fact that seeking guidance or discussion from the Minister or government is an abrogation of that statutory officer's own independent discretion. Thank you Mr King for the question. So as not to be seen as being too pedantic I think the question can be succinctly answered as to part one yes, and as to part two not necessarily. Whilst that is brief and to the point I would point out that it might be that both questions call for an expression of opinion and certainly the second one for a legal opinion and the question is otherwise contrary to Standing Orders

MR KING I wonder if I could ask a supplementary question and ask Mr Anderson, will I ever get to the bottom of the issue of statutory discretion

MR NOBBS Thank you Madam Speaker Question No 25 from Mr King is will the Minister table all correspondence from the regulatory authority CASA in relation to dispensations and exemptions from the requirements of runway end safety measures? I must point out at the start Madam Speaker that I think Mrs Ward has the copyright on this question because she asked me this question at the last sitting of the parliament so I gave her the answer at that point which is no doubt within Hansard which indicated that I would make contact through the Airport manager and ascertain what documents CASA was comfortable with being tabled and further to that in the discussion we've had this morning in regard to question without notice, I indicated the availability of the Budget Review Committee document which was presented by the Airport manager and how I am quite comfortable in putting that forward as an indicator of the detail that has gone on as well as some of the CASA responses in building up that proposal. Thank you

MR NOBBS Thank you Madam Speaker Question No 26 from Mr King is will the Minister table copies of any press releases or statements wherein the community was advised of the best estimate of a passenger ship being able to unload at Norfolk Island? Madam Speaker I suppose at the outset and today is an example of this, that regardless of the tidal and shipping data the Captain's decision on the day is the final decision. The Captain's decision is made on the safety factors and the like. The information that I've been able to track down in terms of working group data for cruise ships as well as media releases put out by previous Members of the Tourist Bureau and the Tourism Minister don't indicate an estimate of the number of successful unloads or anything like that. The data that was presented at one stage to the 12th Legislative Assembly had a table to indicate tidal movements and success or otherwise of unloading the cargo ship and so I come back to what I said at the start, which is regardless of tidal conditions it is the Captain's decision and I'll add to that in today's context in that early this morning I was at the Cascade Pier. The sea conditions were quite flat although a periodic swell was coming through. The Staff Captain arrived on the landing area to carry out an assessment of whether or not it was suitable for them to disembark passengers. He felt that there was some difficulty with the periodic swell, returned to the ship and gave an indication that they would revisit Norfolk for a further assessment in one hour. At that stage I again revisited the pier. We had a look at the swell conditions which were I would have to say virtually identical to the arrival of the first cruise ship whereby we went through a similar process where the ship's Staff Captain indicated that he didn't feel it was entirely safe, particularly since they had no local knowledge of the conditions around Norfolk Island. In that context we put the pontoon in the water this morning to assist them to make their decision on the swell movement beyond the jetty. As has only just come back to me a moment ago, the cruise ship Captain has decided

that they will not be unloading today. I would have to say that is a major disappointment and it's something that we are going to have to do our best to assess any options to increase our ability to unload these passengers, and I know that our working group are working on barges and other equipment that's aimed at facilitating this

MR NOBBS Thank you Madam Speaker and Question No 27 from Mr King is, is it a fact that the powers and functions of the Tourist Bureau are established by law and that it is not open to the Minister to arbitrarily interfere? I answered this question at some length whilst answering the question without notice at the last sitting and so I really advice or direct Mr King to read the Hansard on that particularly question

SPEAKER Just for the information of the House. We took advice on that very issue from the House of Reps, because our Standing Orders is silent and the matter of repetition of questions usually arise during the questions without notice period, if similar questions are being asked where it is considered that an adequate answer has not been given. The Speaker will usually allow such questions as he does not wish to be seen to be making judgments about whether a question has been fully answered and they go on to say that they believe that if a Member asked a question without notice, and then asked the same question on notice, the question would be permitted because the Speaker would not make a judgement about whether it had been fully answered, and it was on that basis that the question was allowed on the Notice Paper but bearing in mind of course that it is open to the Minister to respond that the question was fully answered when the response was given to the question without notice. I hope that's helpful. Thank you. That completes answers to Questions on notice this morning and we move now to tabling Papers. Are there any papers this morning for presentation Honourable Members

PRESENTATION OF PAPERS

Customs Act 1913 – Approved exemptions

MR ANDERSON Madam Speaker section 2B(2) of the Customs Act 1913 makes provision for the executive member to exempt goods from duty where the duty payable is less than \$200. Section 2B(5) of the Act provides that there the executive member has exercised this power he shall "lay a copy of the exemption on the Table of the Legislative Assembly ". I so table those exemptions. There is only one and it relates to the sum of \$49.46 on the importation of uniforms for the Under 17 Netball Team

Financial indicators for May 2010

MR ANDERSON Thank you Madam Speaker I table the financial indicators for May 2010. The May financial indicators show that the revenue fund has marginally reduced the projected deficit to around \$951,000 as at 31 May. This is the revenue fund. Revenue fund revenue for May, including actual and estimated accruals, amounted to \$1.305 million which is marginally ahead of budget. Revenue fund expenditure, including actual and accruals, amounted to \$1,151 million which was less than budgeted and appears to indicate the restrictions on spending are having an effect. The net effect was that the revenue fund is estimated to have a small surplus for the month. Gross earnings from services, or the GBE's, amounted to approximately \$390,000 and GST revenue is estimated to come in approximately \$569,000 which is a reduction on the previous months reflecting the reduced number of visitors and the reduced economic turnover. The depressing feature that eliminates these improvements is the estimated loss for the month from the operation of Norfolk Air, with total revenue estimated for May of \$1,412,049 and expenditure of \$1,713,100 the loss for the month is estimated to be in the order of \$301,000 against a budgeted loss of \$78,000. If advertising and promotional spend for the month are added - and they properly should

be - the loss is \$342,650 for May. This takes the loss for the financial year to date to \$2,527,600. The potential for the situation to deteriorate still further during June is very real. We can only hope that we can arrest it. Thank you.

Inbound passenger Statistics for May 2010

MR NOBBS
passenger Statistics for May 2010

Thank you Madam Speaker I table the Inbound

SPEAKER
Members if there are no further Papers for presentation this we move on

Thank you Minister. Any further papers. Honourable

STATEMENTS

Are there any Statements this morning Honourable Members. There being no further statements I and gather there are no Reports of Standing Committees, we move now to Notices on the Notice Paper

NOTICES

CUSTOMS ACT 1913 - EXEMPTION FROM PAYMENT OF CUSTOMS DUTY

MR ANDERSON
subsubsection 2B(4) of the Customs Act 1913, this House recommends to the Administrator that the goods specified in the first column of the Schedule imported by the person specified opposite, and on the conditions mentioned, in the second column of the Schedule be exempted from duty. The exemption relates to Medical Supplies and Equipment in the sum of \$1,462.57 for the benefit of St John's Ambulance and there were no conditions imposed and I seek the House's approval

Thank you Madam Speaker. I move that under

SPEAKER
Honourable Members. There being no further debate I put the question that the motion be agreed to

Thank you Minister Anderson. Is there any debate

QUESTION PUT
AGREED

I think the Ayes have it. The motion is so agreed

TOURIST ACCOMMODATION ACT 1984 – TRANSFER OF LICENCE FROM “THE BOUNTY LODGE” TO “BUCK’S POINT HOUSE”

MR NOBBS
the registration of one tourist accommodation unit from the tourist accommodation house known as “The Bounty Lodge” may be transferred from the place described in its current instrument of registration to portion 34i2(a) Martins Road, being the tourist accommodation house to be known as “Buck’s Point House”, subject to compliance with the following conditions:

Thank you Madam Speaker and I'll point out early

that I intend to adjourn this for a further day of sitting. I move that for the purposes of section 15A of the *Tourist Accommodation Act 1984* this House resolves that the registration of one tourist accommodation unit from the tourist accommodation house known as “The Bounty Lodge” may be transferred from the place described in its current instrument of registration to portion 34i2(a) Martins Road, being the tourist accommodation house to be known as “Buck’s Point House”, subject to compliance with the following conditions:

1. Application for registration of a tourist accommodation house must be made in accordance with all applicable statutory requirements after the executive member's approval of the transfer under section 15A(2) in accordance with this resolution.
2. The premises to which registration is transferred must —
 - a. comply with statutory requirements for the ownership and operation of tourist accommodation;
 - b. comply with statutory planning and building requirements for the siting and construction of tourist accommodation;

- c. be equivalent to and maintained at a minimum 3 ½ Star standard under applicable Norfolk Island tourist accommodation grading standards; and
- d. any relevant planning approval must be obtained within 12 months of the transfer approval.

I'll just point out that this follows on from changes enabling the transfer of licences and as pointed out on numerous occasions in the process of transferring licence the transfer of licence does not automatically indicate an approval for planning or the like. The responsibility for the licence transferee is to satisfy planning and other building code requirements to ensure that they go through appropriately

MR SNELL

Thank you Madam Speaker. I appreciate that the Minister has indicated that this matter will be deferred but Madam Speaker it gives me great concern that applications for transfers of this nature submitted to the House could lead to tourist accommodation being established in areas that do not complement the industry. I presume that matters such as public interest will prevail in this and will be taken into consideration

MR NOBBS

Thank you Madam Speaker and just to provide some response to Mr Snell there, there are a number of considerations in the approval process to enable a licence to be transferred and indeed in regard to the planning process to ensure that I think appropriate consultation is enabled as well as it will be for a better outcome rather than a worse one as you indicated could happen

MR SHERIDAN

Thank you Madam Speaker I just make comment with regard to Mr Snell's comment there, and it will refer really to the next two items on the Notice Paper also, it's just a general comment in regard to the Planning and Environment Board when they do consider applications such as this, and just note that the transfer of licence from, in this instance, Bounty Lodge to Buck's Point House, that does not necessarily guarantee planning approval. I would just like to point that out. This is just purely the transfer of tourist accommodation licence but as indicated, it is one of the requirements. They have to comply with the statutory planning and building requirements for the siting and construction of tourist accommodation and in that the Planning and Environment Board undertakes a very thorough undertaking of the proposal and all considerations that Mr Snell has indicated with regard to the community's interest will be taken into consideration when the Board meets and considers the application whenever it is submitted

SPEAKER

Thank you Minister Sheridan. Is there any further debate. Honourable Members with your indulgence, I would like to record into Hansard that I will not be participating in the debate and I will abstain from voting because I am a tourist accommodation owner thank you. Minister Nobbs I look to you now for a motion of adjournment if the debate is concluded

MR NOBBS

Thank you Madam Speaker I move that debate be adjourned and the resumption of debate made an Order of the Day for a subsequent day of sitting

SPEAKER

Thank you Mr Nobbs. Honourable Members the question is that debate be adjourned and resumption of debate be made an order of the day for the next sitting and I put that question

QUESTION PUT
AGREED

That matter is so adjourned

**TOURIST ACCOMMODATION ACT 1984 - TRANSFER OF LICENCE FROM
“CASTAWAY HOTEL AND APARTMENTS” TO “HIDEAWAY RETREAT”**

MR NOBBS Thank you Madam Speaker and I similarly advise that I will seek to adjourn this at the end of discussions and debate. Madam Speaker I move that for the purposes of section 15A of the *Tourist Accommodation Act 1984* this House resolves that the registration of one tourist accommodation unit from the tourist accommodation house known as “Castaway Hotel and Apartments” may be transferred from the place described in its current instrument of registration to portion 153i4(a) George Hunn Nobbs Road, being the tourist accommodation house to be known as “Hideaway Retreat”, subject to compliance with the following conditions:

1. Application for registration of a tourist accommodation house must be made in accordance with all applicable statutory requirements after the executive member's approval of the transfer under section 15A(2) in accordance with this resolution.
2. The premises to which registration is transferred must —
 - a. comply with statutory requirements for the ownership and operation of tourist accommodation;
 - b. comply with statutory planning and building requirements for the siting and construction of tourist accommodation;
 - c. be equivalent to and maintained at a minimum 3 ½ Star standard under applicable Norfolk Island tourist accommodation grading standards; and
 - d. any relevant planning approval must be obtained within 12 months of the transfer approval.

MR SNELL Thank you Madam Speaker my objection to the previous application no way applies to this one. My previous objection really was that the previous application was to establish a new development. This one is from one established tourist accommodation house to another established tourist accommodation and it's been part of the policy of the House in previous instances so I would just like to clarify that, my objection to this is not the same as the previous one

SPEAKER Thank you Mr Snell. Any further debate Honourable Members. Minister Nobbs I look to you

MR NOBBS Thank you Madam Speaker I move that debate be adjourned and the resumption of debate made an Order of the Day for a subsequent day of sitting

SPEAKER Thank you Mr Nobbs. Honourable Members the question is that debate be adjourned and resumption of debate be made an order of the day for the next sitting and I put that question

QUESTION PUT
AGREED

That matter is so adjourned

**TOURIST ACCOMMODATION ACT 1984 - TRANSFER OF LICENCE FROM “THE
BOUNTY LODGE” TO “BALL BAY HOUSE”**

MR NOBBS Thank you Madam Speaker and once again I indicate that I will adjourn this at the end of debate. Madam Speaker I move that for the purposes of section 15A of the *Tourist Accommodation Act 1984* this House resolves that the registration of one tourist accommodation unit from the tourist accommodation house known as “The Bounty Lodge” may be transferred from the place described in its current instrument of registration to portion 49e3 Collins Head Road, being the tourist

accommodation house to be known as “Ball Bay House”, subject to compliance with the following conditions:

1. Application for registration of a tourist accommodation house must be made in accordance with all applicable statutory requirements after the executive member's approval of the transfer under section 15A(2) in accordance with this resolution.
2. The premises to which registration is transferred must —
 - a. comply with statutory requirements for the ownership and operation of tourist accommodation;
 - b. comply with statutory planning and building requirements for the siting and construction of tourist accommodation;
 - c. be equivalent to and maintained at a minimum 3 ½ Star standard under applicable Norfolk Island tourist accommodation grading standards; and
 - d. any relevant planning approval must be obtained within 12 months of the transfer approval.

MR SNELL Thank you Madam Speaker I again raise concern with the application for the transfer again to another new tourist accommodation house rather than an established licenced tourist accommodation house and wish to express my concern that this is creating another new tourist accommodation site

MR SHERIDAN Thank you Madam Speaker I wasn't going to make any comment really but a thought just came to mind in regards to this, in the last Legislative Assembly when we decided to enable these transfer of licences etc to people you might say outside the tourism industry, was to try and encourage new business because prior to this the tourist industry was virtually a closed door. You could only transfer a licence from one establishment to another which was an already established tourist accommodation so virtually you might say it was a closed shop in regards to that industry. This was a way of trying to encourage better development, a higher standard of tourist accommodation to attract visitors to Norfolk Island so I just thought I would like to make that comment

SPEAKER Thank you Minister Sheridan. With your indulgence once again, I would like to record that I will not be participating in the debate and I will abstain from voting on Notice No 3 and Notice No 4 when we adjourn because of my conflict of interest. Minister Nobbs I look to you now for a motion

MR NOBBS Thank you Madam Speaker I move that debate be adjourned and the resumption of debate made an Order of the Day for a subsequent day of sitting

SPEAKER Thank you Mr Nobbs. Honourable Members the question is that debate be adjourned and resumption of debate be made an order of the day for the next sitting and I put that question

QUESTION PUT
AGREED

That matter is so adjourned

MOTION BY LEAVE - NORFOLK ISLAND GOVERNMENT TOURIST BUREAU ACT 1980 - RE-APPOINTMENT OF MEMBERS TO THE NORFOLK ISLAND GOVERNMENT TOURIST BUREAU

MR NOBBS Thank you Madam Speaker, I seek leave to move the motion standing in my name on the programme re appointment of members of the tourist bureau

SPEAKER Is leave granted Honourable Members? Leave is granted Minister Nobbs

MR NOBBS Thank you Madam Speaker I move that this House in accordance with section 4 of the *Norfolk Island Government Tourist Bureau Act 1980* recommends to the executive member that he re-appoint Nadia Cuthbertson; Morgan Evans; David Sanders; and David Porter to be members of the Norfolk Island Government Tourist Bureau for the period commencing 1 July 2010 to 31 December 2010. Thank you Madam Speaker first and foremost I would like to thank those Members for their service up to this point in time. As we are all aware Mr Snell is our representative of the Board as well. My intention that I made very clear at the commencement of this Legislative Assembly was that I would review legislation, process and structure for the Tourist Board. In that ongoing review I see that there is a benefit in a six month extension to the current Tourist Board to utilise their corporate knowledge in the evaluation going forward of legislation and Board structure

MR SHERIDAN Thank you Madam Speaker just one comment with regards to the re engagement of these people whilst I appreciate the undertaking by community Members in filing these tasks, sometimes it's a not very grateful task, they do get a little bit of flak thrown at them at the time, they're not remunerated in any way so the task is one of caring or caring for the community. I would just like to ask the Minister in regard to these people, is he totally satisfied that these people have conducted their responsibilities to this organisation to the degree that he is happy with their performance

SPEAKER Minister Sheridan, I would ask if you would be mindful of Standing Orders 72A on statutory office holders and any imputation in regard to them and I would ask you to withdraw that please

MR SHERIDAN I'll withdraw that Madam Speaker, I was just going to ask if he was happy with their performance in the past and I suppose if that is improper well then if that's not the right forum maybe this should have been brought to us before this House so that we could discuss it

MR NOBBS Thank you Madam Speaker I recognise the question and the issue it raises with Standing Orders but what I will say is that in moving forward obviously the review process that is underway at the moment and any changes to structure or legislation encompassing the Tourist Bureau and additions or otherwise to the Act will be specifically about seeking efficiency and best outcome from the Board and from the Bureau

SPEAKER Thank you Minister Nobbs. Is there any debate Honourable Members. There being no further debate I put the question that the motion be agreed to

QUESTION PUT
AGREED

I think the Ayes have it. The motion is so agreed

DECLARATION OF URGENCY - ROAD TRAFFIC (AMENDMENT NO 2) BILL 2010

SPEAKER Honourable Members I wish to advise that in accordance with standing order 158 that the Business Committee has declared that the Road Traffic (Amendment No 2) Bill 2010 shall be passed through all stages at this sitting

ROAD TRAFFIC (AMENDMENT NO 2) BILL 2010

MR SHERIDAN Thank you Madam Speaker I present the Road Traffic (Amendment No 2) Bill 2010 and move that the Bill be agreed to in principle and I table the Explanatory Memorandum to the Bill. Just for the record and for the Hansard I will read the explanatory memorandum.

SPEAKER The question is that the Bill be agreed to in principle. Mr Sheridan

MR SHERIDAN Thank you Madam Speaker. Just for the record and for the Hansard I will read the explanatory memorandum into Hansard, and it's a couple of pages long so just bear with me. Madam Speaker This Bill proposes to correct a significant error in amending legislation that came into effect on 20 March 2009 and was then and has been since overlooked and is inconsistent with the intent of that amending legislation and the express intent of the Legislative Assembly. The error in the prior amendment is one that has not been the subject of any comment in a court from prosecution, defence or the judiciary and awareness of the error only came to light recently. In the explanatory memorandum tabled with the *Road Traffic (Amendment) Bill 2009*, it was stated *inter alia*, (emphasis added) that –

“The principal change, the repeal and replacement of section 32 to 32J preserves the existing subsection 32(1) (that makes it an offence to drive under the influence of liquor or drugs) while extending the reference to “drugs” to include psychotropic substances” and *including the offence of driving with a blood-alcohol level of .08 or more* and retains the existing subsection 32(2) without change. The repealed sections are to be replaced by Regulations as the existing provisions are considered to be confusing and can be more clearly and consistently dealt with by regulation.”

and further,

“Consistent with the existing law, it is made clear that a person may still be convicted of driving under the influence of alcohol or drugs if the court is satisfied that that was the case and if the blood alcohol reading was less than .08. In this later regard *it is noted that driving with a blood alcohol reading of .08 or more is a particular offence* separate from driving under the influence but if a person had a blood alcohol reading of .08 or more the person would not also be convicted of driving under the influence.”

The error made in the Bill and carried on into the Act (No. 4 of 2009) was to amend the pre-existing reference in the Road Traffic regulations to .0008 grams of alcohol per millilitre of blood. (0.08 grams per 100 millilitres or .08%) to become 8 grams per 100 millilitres or 8% in the Act. The prescribed concentration of alcohol for drink driving offences on Norfolk Island was and was always intended to be .08% or .08 grams of alcohol per 100 millilitres of blood (or, which is the same thing, 80 milligrams per 100 millilitres of blood). It is to be noted that the particular offence of driving with a blood alcohol level in excess of a prescribed limit is a separate offence from that of driving under the influence of intoxicating liquor, and that a conviction can be entered for being under the influence even if no blood alcohol test is given or if the reading is less than the prescribed limit. This means that any person found guilty of a breach of paragraph 32(1)(b) could be found guilty of a breach of paragraph 32(1)(a) for which the penalties are the same (although a person cannot be guilty of breach of both). Because it is believed that no person has been unfairly prejudiced by the error described above for the reasons that had the error been raised the person could still have been charged with the drink driving offence and the evidence of the blood alcohol reading been used in evidence to sustain the charge, it is the intention of the Bill that the amendments proposed have retrospective effect from 20 March 2009 – the date of commencement of the earlier incorrect amendment Act (No. 4 of 2009). It is also intended to validate any convictions and penalties in respect of breach of paragraph 32(1)(b) but only in respect of the alleged percentage of blood alcohol content: any issues relating to other aspects of a conviction are not intended to be free from query or appeal within the ordinary

provisions of the law. As some, but not all, of the incorrect references in the Act were also carried on into the Road Traffic (General) Regulations it is proposed that these will also be amended to correct the error. Madam Speaker at the Bill itself,

Clause 1 of the Bill states the short title.

Clause 2 of the Bill provides that it commences upon notification of assent but has effect from 20 March 2009 which is the date that Act No. 4 came into force.

Clause 3 of the Bill identifies the principal Act being amended.

Clause 4 of the Bill amends the incorrect references to the blood alcohol concentrations from "8 grams of alcohol in 100 millilitres of blood", to 0.08 grams of alcohol in 100 millilitres of blood".

Clause 5 of the Bill seeks to ensure that the amendments are fully effective from 20 March 2009 by, providing—

Subclause (1), that all proceedings and convictions were validly commenced made and enforced;

Subclause (2), that no action can be commenced to dispute any proceedings conviction or penalty; and

Subclause (3) is intended to ensure that subclause (2) does not prevent an appeal against a conviction that is lodged before the commencement of this Act on grounds other than compliance with the then prescribed alcohol content.

Subclause (4) makes it clear that the references to paragraph 32(1)(b) are to those paragraphs as inserted into the principal Act by the previous amending Act, No. 4 of 2009. This is intended to make it quite clear that the saving of prior action has effect only in connection with any process that has taken place while these paragraphs were part of the legislation and only in connection with those paragraphs.

Madam Speaker that concludes the explanatory memorandum. I would just like to add a couple of my own personal comments in support of the explanatory memorandum. I believe that the explanatory memorandum states quite clearly what the intent of this Bill does. Unfortunately in early 2009 when the Minister of the day introduced legislation to enable the breathalyser to be utilised in certain circumstances and the inclusion of psychotropic substances into the Act, certain clauses of the Road Traffic Act were removed and replaced with clauses which enabled these new provisions to be law. One of the clauses replaced was clause 32 which resulted in an error in the BAC being included, of which this amendment today seeks to rectify. Madam Speaker there has been concern with regard to the retro nature of the Bill and its commencement date to March 2009, but this is quite necessary as explained in the explanatory memorandum to ensure that the integrity of the policing and court systems are maintained. As indicated it is not intended to impose criminal liability retrospectively for any action which was not actually meant to be an offence at the earlier time. Madam Speaker I would myself not consider retro legislation if it were to be a new law being introduced, but in this instance prior to the amendment in 2009 it was an offence to drive with a reading of a BAC of more than .08 under the old law. The intent was never to change this and it still is the intent that driving with a Blood Alcohol Concentrate of over .08 to be an offence. I just happens that there was an error when compiling the amendment back in 2009 but the intent was never altered. Madam Speaker I am satisfied that not one person will be adversely effected by this amendment today. Just a short comment in regards to why the Bill is deemed to be an Urgent Bill is just to ensure that the police and the courts can undertake their responsibilities in regard to their duties and of course to correct the Act. Post Haste.

MRS WARD

Thank you Madam Speaker. While it is clear that the intent of the Bill is to preserve the integrity of the conviction under section 32(1)(b) of the Act based on a .08% Blood Alcohol Concentrate I do not support clause 2 because it proposes to make the Bill retroactive. Do we need to remind ourselves that the right to certainty before the law and to not be subject to retrospective criminal sanction is a basic human right. Retrospective legislation destroys the certainty of law. It's subjective and can be vindictive and while I believe that in this instance none of those arguments would apply, it is the principle of the matter. I do applaud Minister Sheridan's initiative as a new

Minister in having open communication with His Honour the Administrator before introducing the Bill. I will be voting against clause 2 of the Bill Madam Speaker

MR KING Thank you Madam Speaker. Let me say firstly that of course I am absolutely astounded that such a dramatic error can go unnoticed passing presumably under the noses of so many senior officers of the Public Service and under the noses of the entire Membership of the last Legislative Assembly. I accept of course what Mr Sheridan has said, and it must be of course of some embarrassment to himself. Nevertheless I just am essentially am amazed that such an issue has arisen. It's not the worse thing that's happened of course. I take issue with the retroactive aspects of the Bill myself. I believe that we are treading on very, very dangerous grounds. Retroactivity in respect of criminal activity is not something to be taken lightly and there are many, many commentaries in relation to that particularly and relevantly at the High Court Level. In the Polyukhovich case of 1991 it became the subject of much discussion by their Worships, by their Honours and indeed a lot of focus was placed on retroactivity. Comments made in that judgement include pronouncements of a general abhorrence in respect of retroactive legislation in criminal matters. A lot of discussion took place in respect of the application of the constitution in Chapter 3 and whether in fact retroactive legislation is allowed under the constitution. Their Honours made no definitive pronouncement in respect of that except to say that they did not accept in absolute terms the arguments by the Commonwealth at that time, that the constitution was not offended. Madam Speaker I have no wish to be seen as one of a legislature which it is likely at some time in the future to be determining by retroactive legislation that the conduct that took place at a previous time is now criminal and it is the wrong message to be sending out to the community. It is a matter of principle. We made the stuff up. The error if I could perhaps be more polite. We made the error. We often have to live with the consequences of our legislative errors and it occurs to me that there are many lying around and that's very, very, very unfortunate and we really have to do something about the quality of the legislative drafting. Madam Speaker we do have to live with the consequence of errors. I make no particular mention about the nature of the conduct. It is the principle of the matter. I will not be party to legislation which makes former conduct a criminal offence. Thank you. That's all I wish to say

MR SNELL Thank you Madam Speaker. Mr King has his views on this and so do quite a number of other people but I think in defence of the explanatory memorandum and in defence of the previous Legislative Assembly the intent of the law at that time, whilst it may have been considered now as being of poor substance or poor law I think we will find in many instances that there have been other areas where such poor law have been acted on but the intent of the law at the time was as Minister Sheridan has pointed out. It's not to do any damage, it was quite clearly intended that it should be .08 and there can be no other way to correct this matter of what is being handled here today

MR KING Thank you Madam Speaker, I wish to say and I should have said previously that I will of course support the intent of the Bill in a modified form. It's just the retroactivity that I take exception to. There are general principles involved here and principles of individual interests of course, individual interests requiring consideration of the nature of the morally offensive act which took place. We have to understand that the people involved here were wrongly convicted and we are encroaching on the area of the judiciary by trying to validate decisions of the court. That is offensive. The other principle is the community interest and the community is entitled to be protected against capricious conduct of the legislature which might make something they did previously a criminal offence. If we get to the stage where we are voting on the urgency of this Bill to go through all stages today, I will be voting against that. If we get to the detail stage I will be voting against not only clause 2 but clause 5 as well and if that falls, I will then vote for the Bill. I won't vote for the Bill without the amendments but that does not mean that I oppose the principle objective

MR SNELL Thank you Madam Speaker it is my understanding that areas where Mr King has brought some attention to in regard to whether there have been convictions, which could have been reversed or could not have applied, it is our understanding that research has been done on convictions and that there would have been no one convicted erroneously on the Act as it stood at the time

MR KING Thank you Madam Speaker, but they weren't!

MR SHERIDAN Thank you Madam Speaker I realise it is a big point of debate this retroaction that is being proposed and in defence of it, as I say in the explanatory memorandum there's been quite a few people before the court charged under 32(1)C and at no time did anybody, the court itself, the solicitors defending these people charged under this provision, this clause, the Police, nobody objected to it at the time because the conclusion that can be formed is that they all, and it's a bad word, but assumed that the legislation read .08 and it's just the confusion. So they all understood that they had done wrong, and they were guilty of a crime and I would just like to add that if they had been made aware of the error at the time, then they would have been charged under another provision in the Act and this may come about that if this Bill doesn't pass the retro part of it and somebody appeals against their conviction, then I would assume that they would be charged under another section of the Act. I don't believe that going down that road of having people appeal, having them go through the process again, expenditure of more money and then the courts might find in their favour. I don't think they would have any cause not to, but I would think that they would then be charged under another clause 32(1)A of driving under the influence of where the Blood Alcohol Concentrate would be used in the court and I think they would be convicted but like I said, this is not a new law. It's an old law that's been amended and when they did the amendment, as Mr King said, they stuffed it up. And unfortunately that's exactly what happened. Now the intent was always there. It was an old law. So I'm saying, everybody knew what the law was. That you could not drive with a Blood Alcohol Concentrate of more than .08 and it's in that vein that the retroaction has been taken. Not one person will be adversely affected by it and I understand where Mr King is coming from. He's saying that it may be getting back into dangerous territory. I don't believe so. I would like to know some more detail of the cases that Mr King refers to. Polyukhovich or what law it related to. Was it a new law. Was it an existing law. That may be an argument for another day but that's all I'll say at this point

MR NOBBS Thank you Madam Speaker I think always the intention of the legislation was crystal clear and that's why it has taken some degree of time through preparation in the original documents through process through the House through numerous cases through the courts to this stage of being picked up and I think the reasoning behind this could well come down to the issue that there are a number of ways to interpret the Blood Alcohol Concentrate. In some cases it's written as a percentage, in some cases it's written as a ratio and so in that regard it is where perhaps in the legal spheres, why it wasn't picked up before now. However I will also point out something that Mr Sheridan pointed out, and that is that in his earlier statements he pointed out that there were separate parts of the Act which dealt with the .08 and driving under the influence so in that regard from my understanding from the representation by our Legal Services Unit representative at our MLA's meeting recently which generally everyone was in attendance at that there is a clear path that has been used up to this point and as Mr Sheridan has pointed out, no one will be disadvantaged in retroactive action on this proposal. At the same time, I share similar concerns with others around the table of making anything retroactive in legislation

MR ANDERSON Thank you Madam Speaker. I'm obviously aware of the concerns regarding the retrospectivity particularly in relation to the sections of this bill so I'll offer a few thoughts on the reasons for retrospectivity and in particular as it applies why the convictions recorded since the amending act was passed - that is since

the error was introduced into the act - should stand. Firstly there is a long standing presumption against retrospectivity of criminal laws which is widely supported. It's been around for so long now, Sir William Blackstone writing some 200 years ago explained the presumption in respect of the case before him when he said and I quote: "*here it is impossible that the party could foresee that an action, innocent when it was done, should be afterwards converted to guilt by a subsequent law: he had therefore no cause to abstain from it: and all punishment for not abstaining must of consequence be cruel and unjust. All laws should therefore be made to commence in futuro, and be notified before their commencement.*" That maxim is long standing and it's well held. In simple terms people should not be convicted and sentenced for actions that were not illegal when they occurred or without fair warning that the conduct was criminal. The presumption against retrospectivity may be rebutted in a statute by clear and unambiguous language or by necessary implication. Here we are choosing to do it by statute. The present circumstances relate to the correction of a drafting error. The law as it stood before the error occurred is the same law that the bill will reintroduce. There is no surprise. It returns the law to where it was always intended to be and where all persons believed it to be. The Road Traffic (Amendment No. 2) Bill 2010 does not properly amount to the criminalising, after the event, of behaviour that was considered to be legal when that behaviour occurred. This bill is clearly directed to correcting an obvious drafting error in the substantive act that had been inadvertently introduced by the Road Traffic (Amendment) Act 2009 by which the prescribed concentration of alcohol in blood .008 grams of alcohol per millilitre of blood or the way it's commonly understood, .08% became 8 grams per 100 millilitres or 8%. A blood reading limit of 8% is a manifest drafting error in the amending enactment and it would be a nonsense to set such a level. It is 100 times the limit that was in existence. This represents about 20 times what is usually a lethal blood/alcohol concentration. The explanatory memorandum for the Road Traffic (Amendment) Act 2009 clearly gave no indication that a change to the .08% limit was proposed. The Hansards of 18 December 2008 and 18 February 2009 indicate clearly that in the course of debating the bill the Legislative Assembly contemplated that .08% limit was being retained without change. The predominant theme of the debates on the bill instead focussed on the possibility of random breath testing being introduced. I understand approximately 12 prosecutions were conducted under the amended section 32(1)(b). A number of the defendants were represented by legal practitioners. The error contained in section 32(1)(b) was not identified by the courts, by the Legal Practitioners, by the parties before, during or immediately after the prosecutions. The error if discovered could have been overcome immediately by a court under provisions of the Interpretation Act 1979 relating to the actual purpose or objective underlying the enactment or by the introduction of extrinsic material to determine the meaning of a provision when, in the words of clause 10d of the Interpretation Act: "the ordinary meaning conveyed by the text of the provision taking into account its context in the enactment and the purpose or object underlying the enactment leads to a result that is manifestly absurd or unreasonable". So it's been considered and it's covered in the Interpretation Act that this could possibly happen. There was obviously no intention to introduce a level of blood alcohol concentration that was beyond what is considered to be 20 times a lethal concentration. What purpose could it possibly serve? It must be absurd. It was meant to be a restatement of the law as it stood. While the courts might be imposed upon to determine the true meaning if we choose not to change it, and utilising the Interpretation Act they could do so, it is more efficient to correct the error while maintaining the status quo. Those convictions that did occur if the retrospective amendments and validity are not agreed to, are out of time for commencing an appeal as of right but the Supreme Court may grant leave to hear an appeal in the circumstances. Success or any appeal is not assured and if the conviction were overturned on appeal it would still be open to the Police to commence prosecutions, utilising the same evidence, on alternative charges such as driving under the influence, as opposed to merely exceeding the legal limit or perhaps even proceeding as driving in a manner dangerous. In my view the retrospectivity is justified in these circumstances and no injustice will occur. The only other issue that may arise is public policy. Public policy is the community's view at large of issues and particularly in relation to the enforcement of

laws and the community at large would generally expect that if people are acting contrary to the interests of the community, that is being irresponsible in driving while under the influence and because of an error in the law they should be able to be relieved of their obligations or of their punishment, public policy would dictate that the community at large would expect those people because of the activities they are engaging in to still be punished to comply with the expectations of the community. I therefore intend to support the Bill. Thank you

MR KING Thank you Minister, that was an enlightening contribution from Mr Anderson and I actually understand most of what he was talking about. I understand the notion of intention. The absurdity. We nevertheless, passed and signed off on a Bill which was not consistent with the intention of the legislature. I accept that. But what we did after that was we published the Bill. We published the Bill. And that of course is a factor to be taken into account when interpreting the Bill. Whether it's stupid or not is of course a factor as well, but what must be given weight is the ordinary meaning of the words which we published and we published 8 milligrams. Those people were wrongly convicted. Discussions about what everyone thought at the time are in my view irrelevant. What was relevant was the law that applied at that time and in my view the apparent intrusion now on the area of the judiciary and that is in direct contravention, in my view, limited as it may be, and uneducated as it may be, an intrusion on the provisions of the constitution. It was a faulty law. A faulty law that we put out in the place. No mention has been made and I understand that someone may, and Tim alluded to it and Mr Anderson alluded to it, that people may well have been able to be charged under 32(1) or the existing provision but that argument seems to take no account of the double jeopardy principles in respect of charging these people again. I believe that we have to live with the consequences of our own stupidity. I don't say we don't change it. We change it but I don't believe that with the pronouncements that were made by the High Court in Polyukhovich and if Mr Sheridan hasn't read it, perhaps he ought to read it before moving to a vote in relation to the matter, but the pronouncements made by the High Court in Polyukhovich renders our proposal to retro actively apply this legislation as unsafe

SPEAKER Thank you Mr King. Any further debate Honourable Members. There being no further debate I put the question is that the Bill be agreed to in principle

QUESTION PUT
AGREED
MR KING DISSENTING

Do you wish the House called Mr King. No. The Bill is so agreed in principle

We move now to the detail stage and I'm proposing to go through the Bill clause by clause, starting with Clause 1. Is there any debate on Clause 1. I put the question that Clause 1 be agreed to

QUESTION PUT
AGREED

The ayes have it.

We move to Clause 2 of the bill which is the commencement provision. Any debate Honourable Members on the question that Clause 2 be agreed to. I put the question that Clause 1 be agreed to

QUESTION PUT

MR SHERIDAN
the community's awareness

Madam Speaker can you please call the House for

SPEAKER
call the House on the question that Clause 2 of the Bill be agreed to

MS ADAMS	AYE
MR SNELL	AYE
MR SHERIDAN	AYE
MR BUFFETT	AYE
MR NOBBS	AYE
MRS WARD	NO
MR KING	NO
MR ANDERSON	AYE

The result of voting Honourable Members, the Ayes six, the noes two therefore Clause 2 of the Bill is agreed to

I move now to Clause 3 of the Bill relating to the principle Act. Is there any debate. I put the question that Clause 3 be agreed to

QUESTION PUT
AGREED

Clause 3 of the Bill is agreed

I move now to Clause 4 of the Bill amendment of the principle Act. Is there any debate. I put the question that Clause 4 be agreed to

QUESTION PUT
AGREED

Clause 4 of the Bill is so agreed

I move now to the final Clause in the Bill, Clause 5 which is the savings Clause. Is there any debate. I put the question that Clause 5 be agreed to

QUESTION PUT
AGREED
MRS WARD DISSENTING
MR KING DISSENTING

Do you wish the House called Mrs Ward, Mr King. No. Clause 5 of the Bill is so agreed

The next question is that the remainder of the Bill be agreed to. I put that question

QUESTION PUT
AGREED
MR KING DISSENTING

Mr Sheridan, I seek a final motion

MR SHERIDAN
agreed to

Thank you Madam Speaker I move that the Bill be

SPEAKER
Honourable Members. There being no debate I put that question that the Bill be agreed to

QUESTION PUT
AGREED
MR KING DISSENTING

Do you wish your dissenting vote recorded. We will do so. The ayes have it, that Bill is agreed to

Honourable Members moving along we have on the programme the Public Sector Management (Amendment) Bill 2010 and Chief Minister I understand you are seeking leave in respect of this matter

PUBLIC SECTOR MANAGEMENT (AMENDMENT) BILL 2010

MR BUFFETT Madam Speaker I seek leave to present the Public Sector Management (Amendment) Bill 2010

SPEAKER Is leave granted Honourable Members? Leave is granted Minister

MR BUFFETT Thank you Madam Speaker and Members thank you. I present the Public Sector Management (Amendment) Bill 2010 and move that the Bill be agreed to in principle and I table the Explanatory Memorandum to the Bill. There are a number of difficulties in the Public Sector Management Act. Not the least is the process for appeal in various circumstances. The Public Service Board is the appeal authority. There have been differing views on this process. Principally but not exclusively to three parties within this area. The CEO, the Public Service Board and the Public Service Association. I've got to identify that these difficulties are long standing. They are prior even to this Legislative Assembly but the present situation is that the process of appeal very regrettably is not operating at this moment. Therefore to solve the overall difficulties really requires significant review of this particular piece of legislation, the Public Sector Management Act 2000. That in its entirety is a large and more relevant here, a very long task. Given that therefore I am tackling this difficulty in two parts. Part 1 is to give clarity to the appeal process in the Public Service Board area particularly and that's to be done now and that is what this Bill addresses. The second part is a larger and a wider review and that will follow therefore, this Bill is intended to give clarity to certain aspects of the Public Sector Management Act 2000 in respect of processes and in respect of procedures connected with the Public Service Board. It has been observed that the interpretation of the Act by the Board and the CEO has diverged in a manner that really does require this sort of urgent clarification. I've got to stress that this is introduction of the legislation. I have foreshadowed a Bill of this nature to the three parties that I have mentioned earlier, that is the PSA the PSB and the CEO however, the detail of this Bill hasn't been accessible and available until today, so obviously I'm going to invite comment not only from Members but from the wider spectrum and indeed others. This is really what the Bill contains. It expands the appointment authority of the Board in respect of the secretariat and in respect of obtaining legal assistance. It requires the Board to comply with the Act and in wider spectrums of the law. It does make it clear that the powers of the Staff Consultative Committee must not be used in respect of certain issues that are within the Authority of the Chief Executive Officer or the Board especially when they are hearing such matters. It clarifies issues that must not be considered by the Board in determining an appeal. Therefore it gives guidelines. It directs the Board how to deal with an appeal by more than one person. Just to give you an example here, the present legislation allows somebody to appeal and that needs to be heard, but it doesn't involve the person who is the preferred candidate in the process to enter the lists in any way so you will see that it will give clarity to that sort of situation. It also empowers the Board to review its decisions if requested to do so and in so doing to obtain some legal advice if that becomes necessary. There isn't any provision for the Board at present to review its action although there may be some implication that they may be able to do that. It makes

it clear that decisions of the Board are, subject to its power to review its own decisions when requested, and they are final and they are binding and they're not open to appeal beyond that. It makes it clear that the powers of the Board in respect of appeal against termination are restricted to particular issues and they are specified in the Act itself. It confirms that when a complaint is dealt with by the Board and its recommendations or findings are provided to the Chief Executive officer, that he or she is not required to implement all or any part of them since the Board is only empowered when dealing with complaints under section 65 to investigate and report its findings to the Chief Executive Officer. This is differentiating between the complaints and appeals in respect of getting a job or being terminated from a job. That's the difference in that particular area there and in one the Board's findings are statutorily needed to be followed, and the other it is in a different sense advice to the CEO which he evaluates in terms examining that report. It clarifies the procedures to be followed before hearing a complaint and it establishes who are parties to various matters before the Board. It establishes the procedures for lodging appeals. It prevents the Chief Executive Officer making an appointment whilst an appeal is pending, and it makes it clear that the failure to comply with a provision of the Act does not permit any action against the Board, the Chief Executive Officer or the Administration for any loss or damage. Importantly, it clarifies the powers of the Board to hold a hearing without hearing the parties in person but requires the Board to hold a formal hearing if one or more of the parties request it . that's the spectrum of this particular piece of legislation Madam Speaker and as you can see, it concentrates upon processes and procedures connected with the Public Service Board. I mentioned at introduction and I mentioned again that this has been foreshadowed but it is available today in the form that I am describing and the detail of the Bill of course is tabled and I do invite comment in respect of it. The Plan is that it will sit on the table for the next number of weeks and be finally considered I would plan when we next come together which I think will be foreshadowed, but the House is yet to determine that, but something like the 28th of next month. As you can see, this is important so that it gives clarity in certain areas and that the bogging down at this moment, to use that inappropriate words, may be solved and the Board can therefore continue on to quite properly hear matters that it has not been able to do because of these sort of difficulties over a number of months.

MR NOBBS Thank you Madam Speaker. I certainly welcome this Bill coming forward and it does clarify the operations and the process for the Board and gives a clear idea of the Public Service Memberships access to redress and process where appropriate. The appointment of the secretariat and separate legal advise and that access also removes a sometimes perceived view that there is a conflict of interest that the Board is assessing an issue that deals with the Administration while using Administration Legal Advise and Administration secretariat so I certainly welcome this coming Board. Thank you

MR KING Thank you Madam Speaker won't go so far as to say that I welcome the legislation. I'll reserve that assessment until I read it and understand it. I do understand, although I haven't heard any representations made to me by the PSA for anyone in that area, but I do understand that there have been some unhappiness and some indecision and some bogging down to use David's words, of various matters in the Public Service Board area. I also understand having read a letter that was sent to the Chief Minister only yesterday by the Public Service Association where there were accusations of the staff consultation committee not being consulted apparently in accordance with law. Accusations of proposed changes to the HR Policy being made without the required consultation with the Public Service Association or the required level of consultation. I see and hear evidence of a massive breakdown in communications between the representative body the PSA and senior management. Those are unhappy things which can do nothing for the morale of the Public Service and they have to be attended to. I hope there's no rush in pushing this legislation through and know there is a pressing need to deal with these things, to move on a whole host of matters, but I don't think that we ought to let that over ride the need for very, very close

consideration of these legislative proposals. I look forward to having a read of them and discussing them further

SPEAKER Thank you Mr King. Chief Minister I look to you for a motion

MR BUFFETT Thank you Madam Speaker. If I could make these closing remarks. I did mention when I addressed this matter that its to be addressed in two parts. I also mentioned that there are difficulties in the operation of the Board at this moment. Therefore a number of matters that are under appeal are not being processed. That's an unsatisfactory situation to continue therefore this particular piece of legislation is designed to endeavour to smooth the path of process so that there is no backlog, and that matters can be processed and processed satisfactorily. It's not a claim Madam Speaker to solve all the ills and the difficulties that are around. There are some that need to continue to be walked through now under the existing legislation but there are some that need to be addressed in the manner of adjusting further the legislation and those matters I foreshadowed would take longer and the matter to further delay the processes that I earlier described would not be a satisfactory result so I'm endeavoring to tackle it in that way and they are the reasons for doing it.

SPEAKER Thank you Chief Minister. Is there any further debate. There being no further debate I look to you Chief Minister

MR BUFFETT Madam Speaker I move that debate be adjourned and the resumption of debate be made an Order of the Day for a subsequent day of sitting

SPEAKER Thank you Chief Minister. Honourable Members the question is that debate be adjourned and resumption of debate be made an order of the day for the next sitting and I put that question

QUESTION PUT
AGREED

That matter is so adjourned

APPROPRIATION BILL 2010-2011

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

MR ANDERSON Thank you Madam Speaker. Since the introduction of the bill a week ago I have had many positive comments made to me about the introduction of performance based budgeting and the general acceptance that the additional disclosure and the goals or outcomes that are set should have long term benefits in terms of improving efficiency of the public service. It should also focus attention on the expenditure and provide a benchmark to be achieved. There was some concern that the goals or outcomes would be let run without monitoring but I repeat that the intention is to assess progress on a quarterly basis rather than merely at a half yearly and annual review so in fact scrutiny will be doubled. There was also a misconception that somewhere in the budget we were increasing the GST rate by a further 25% - that is - to a rate of 15%. We have not changed the GST rate and it was never discussed except indirectly in general consideration of the need to review tax rates if the deficit blows out. That was what I stated when I said we would otherwise have to consider reduction of government services and that might lead to staff reductions. The normal adjustment to fee units that occurs at the end of each financial year will still go ahead so some changes will occur but that is not new. Consideration of any other tax

changes will occur if and when a need arises. However, I do anticipate reviewing, as part of my portfolio, the rates of duty applicable to alcohol and cigarettes but that is part of a general review to assess if the rates currently applicable to, for example, some alcohol is perhaps set too high. That has also been some concern that if we are to undertake some tasks - such as the runway end safety area - utilising existing government personnel and existing government equipment - that utilisation will impact on the effectiveness of the area they would otherwise be working in. - this is a question of allocation of very limited resources, setting priorities and meeting obligations. I have also been asked about "unquantifiable liabilities" such as might arise if we had another lengthy court case, if unexpected claims are made against the administration or if a natural disaster occurs. These are unknowns that we would not be able to fund immediately but as with any view into the crystal ball solutions would have to be found and expenditure juggled. Risks do exist. We would presumably also look to the commonwealth government for assistance if necessary, as do all other state and territory governments when extraordinary circumstances arise. The progress of our finances will be reviewed on a monthly basis as has always occurred in the past, and remedial action, if necessary, will be taken. The task now is to achieve the budgeted outcome. I commend the bill to the house. Thank you.

MR KING Madam Speaker before I make a more substantial contribution I wonder whether I might pose a series of very brief questions which the Minister might consider responding to in their contributions to the debate and I'm interested to learn for example in the provision made for the eradication of the Argentine Ant or the programme for the eradication whether the provision of \$107,000 as I recall is going to be sufficient to see the programme through to its completion or whether that's just for this year. I'm interested to hear if any provision has been made at all for joining the SPIN fibre optic network, or whether that is absolutely dead in the water; I'm interested to hear some comment in respect of training and development allocation of \$150,000 and I welcome that. I'm a great supporter of staff training. I think that's excellent, and that has been retained. I'm interested to know how that money is accessed, by the various Departments, whether it's on a competitive basis. If it's on a competitive basis, what priority and does it include training in respect of OH&S. I see in the budget debate papers that provisions that were sought for capital works and maintenance for Rawson Hall have been put into the second column for further consideration some time in the future. No allocation made now. Mr Sheridan made some comment in his initial contribution about seeking some monies from the community for those purposes. I wonder whether he might elaborate on that also. I note as well that the stock health programme has had its allocation or the amount requested reduced by \$13,000 or put over in the second column for future consideration. Does that reflect a reduced stock health programme or on what basis was that request made for that \$13,000 and on what basis was it omitted from the Appropriation Bill. Just a few questions that Ministers may care to consider

MR NOBBS Thank you Madam Speaker I think there's a couple of questions there that I can provide some response to straight away. One was with regard to a provision for the fibre optic network or the SPIN cable. At this stage SPIN is in perhaps some form of limbo with the operators and they are in the process of formalising an alternative proposal which they will no doubt make a recommendation to us to assess and that recommendation will be utilising a different line of connectivity for the fibre, so in that context it doesn't form part of this budget and of course, we are also assessing other areas that will give us connectivity and satisfy new commerce and existing commerce and community requirements in that regard. I'll talk briefly on the stock health. It was in regard to the BVDV or the Bovine Viral Diahorrea Virus. At a recent discussion with the Cabinet I've requested that the programme and stock inspection be relocated as there is a perceived conflict of interest in connection there, however I will say that in the lead up to the budget preparation there was a recommendation for a half share programme to be put forward for the immunization programme. At this point that's been set back to the budget review several months down

the track and in the lead up to that review there will be some appropriate legislation assessed and the like to ensure that whatever programme is to be paid for or put in place to provide the immunization, is one that is supported by legislation to ensure the eradication of that virus. Thank you

MR WARD Thank you Mr Deputy Speaker. Minister Anderson's Bill is about expenditure and this debate is part of the process of approving how much money the service, the school, the Tourist Bureau, KAVHA, the Hospital, Banyan Park and other areas will have to spend in the coming financial year. When the community at large sees the total sum of expenditure, some \$58.5m it is normal for the private sector to ask where does the money go. Ironically viability of the private sector is very much dependent on certainty and stability within the public sector. This Legislative Assembly understands that economic activity is stalling, but right now if it were to cut spending even further the private sector would lose public sector dollars flowing into business and more importantly, while the Government subsidises the tourism industry, we are inter dependent. Having said that the Government and Public Service must continue to work at improving financial management in order to maintain the respect of the community at large. The Minister's budget is designed to ensure two things. One, the island's finances and the information provided in relation to public expenditure is transparent. Almost all expenditure is to be approved by the Legislative Assembly as a whole, not at the discretion of the executive member and this will result in far greater scrutiny of spending. The exemptions of course are Healthcare, Workers Comp Scheme and KAVHA which are different. Secondly the budget supports a programme based performance system and this form of performance based employment is being fully embraced but it is the responsibility of the Legislative Assembly to ensure that adequate funding is appropriated for Managers and contractors to be able to carry out their objectives. I will call this Bill a reality check. It does not provide for adequate funding for a new hospital or for the development of needs across the Public Service or the Museum. It provides nowhere near enough money to build the new roads, intersections or roundabouts that are arguably needed to safety concerns. The budget provides next to nothing for capital works to be contracted out to the private sector. There is no more stimulus funding and this will seriously affect the economy in the coming year. It is interesting to note that the previous Legislative Assembly bid almost \$50m worth of capital works through various Australian funding processes but without success. The interesting part about that is that our Government then recognised that as a sole provider we had no chance of developing the infrastructure the island needs to grow and prosper and that has not changed. A return to 40,000 visitors might provide cosmetic relief but it will not solve our ongoing financial dilemma and I expect that this House will engage fully in debate upon this matter whether that be long term Commonwealth grants, Federal taxation options, anything that is suggested by Members of the House or indeed anybody in the community. Debate is engaging in a proactive way and if this Government will not step up to the challenge then in my view we are wasting the community's hard earned dollars and we are abusing the power and faith they have put in us. In closing Deputy Speaker many in the Public Service are to be congratulated for the way they have openly acknowledged the current economic situation and have tailored their budgets accordingly. This budget does not provide for job creation or economic stimulation. It is a maintenance budget. It is a budget where the bottom line is the concern, not the delivery of service, nor the development of our own people. The Minister and the Budget Review Committee have clearly done the best job they can and their efforts have averted the need to increase GST in the short term. All Members are intimately involved in the protection and the development of our future. There are varying views on how best to guarantee that move. The one thing is for certain, that we will not sit idle and we will develop strategies and work to find long term solutions that create employment and secure a more stable future than this budget will provide. I will be voting in support of the Bill. Thank you Deputy Speaker

MR SHERIDAN Thank you Mr Deputy Speaker I would like to make a few comments and in particularly just comment to a couple of comments that Mr

King has referred to and also just in reply to the letter from the Secretary of Norfolk Labour that was passed around to us just yesterday and I think I made a comment at the last sitting last week in particular to my area but the Healthcare Scheme I take note of Norfolk Labour's comments that we've had to subsidise it by a quarter of a million dollars and they say it's no longer financial sustainable. At this point in time, no it's not because we've had some large expenses, especially from overseas and I would just like to make comment on that. The allocation this year to healthcare for local claims is approximately the same as previous years. The overseas claims are virtually double. We allocated \$325,000 in the last financial year, this one just finishing. We've now allocated \$700,000 for overseas treatment. Medivac allocation has gone up from \$140,000 last year to a quarter of a million dollars. But in saying that, with Medivacs we've just had some paperwork in the last week. Norfolk Air now has the capability to put a stretcher on board, they have their personnel trained, and the cost of a stretcher being taken out on Norfolk Air is equivalent to three economy seats plus one for the escort so four economy seats. I just don't know what the full economy fare is. It might cost us \$4-5,000 but that's a lot better than \$30,000 so hopefully those funds for medivacs will not come to fruition. It is as has been pointed out, we've had to subsidise this operation by \$250,000 and I did allude at the last sitting that this Healthcare levy would be reviewed and find on reading the Act that I need to do this before the 1st August. It's actually laid down in the Healthcare Levy Act that it must be reviewed before or on the 1st August and that was always my intention if there would be any increase to increase it from the September levy period so that would fall in line, and I would just like to point out that if we do need a quarter of a million dollars to set aside the scheme it would work out to be approximately \$185 per person per year to satisfy that quarter of a million dollars, so that's just an indicative increase of what could be coming but I don't intend to make these decisions hastily because I would like to get the actuarial report. I spoke with the CEO only yesterday and I put time lines on him that I do need that report done by the middle of July or towards late July so that I can fulfill the requirements of the Act and review the levy. I would like to say something in regards to the Hospital subsidy and as I mentioned at the last sitting last week, there's \$150,000 as a provision towards the planning of a new hospital. I'm hoping that we don't use any of that money but we still achieve the aim of achieving fully drawn architectural drawings for the Hospital so that then we can put together a fully considered proposal and then we go out and chase the funding. This has always been the problem that we've gone down that road of looking for funding and they say where's your proposal. How much will it cost. Well unfortunately we don't know how much it's going to cost until we get some detailed drawings done up, some architectural drawings so we know exactly what's entailed in this proposal and that is why the \$150,000 has been allocated. I don't think it's premature to put that money there. I think it's a necessity so that we can forward the new hospital proposal, and I'm actually working on and I've got the Hospital Director working on a couple of proposals that could alleviate the need for that money, we could get something done virtually for nothing. There would be a little bit of an expense but somewhere along the lines of \$150,000 but it will achieve the aim and this is the reason why we need to go down this road and get plans drawn up, architectural drawings, so that we can put a business proposal together and then you can approach people for funding. Mr King mentioned Argentine Ants and whether the \$107,000 is sufficient for the programme. I'll say no. that is only for this twelve months. That's what's been identified for the next twelve months, that is required and my plan I think there's another \$240,000 for the next three years, so there's another \$130,000 for the next two years, that will be required to continue the eradication of the Argentine Ants so no, \$107,000 is only for the next twelve months and then I'll be seeking some more for the financial year following on. Just a comment in the nominal defendant funding scheme and the comment from the Secretary of Norfolk Labour saying that her concern has been withdrawn for funding. We did have \$30,000 down for the nominal defendant scheme and like I was saying, it wasn't used last year, we had \$30,000 last year, but the main problem we had there is finding an insurance company that will accept that risk and at this point in time, there's only six in Australia that carry that sort of risk and none of them are prepared to take on board that scheme so a decision was made during the review of the budget process that \$30,000 would be

wiped but of course if we can find somebody to take on the scheme, and it will depend largely on the review of the Road Traffic Act, and that's the main reason that they won't take it on, because our Road Traffic Regulations don't give them any cover you might say, it leaves themselves too exposed to risk, so the legislation then the Act, I'm reviewing will go a long way to alleviating that and hopefully we'll be able to convince an insurance company to come on board with this nominal defendant scheme. There was a comment there of something about unacceptable number of uninsured vehicles using the roads. Well if they are uninsured they are unregistered because one goes hand in hand with the other and I would just like to say that at the end of June there's approximately 6% of the vehicles down in the Registry records which could be considered to be unregistered. Now there could be varying reasons for that. The Registration may have lapsed in the last week or two, and the records haven't caught up and they haven't been re registered, number plates could be sitting on vehicles that aren't used any more so I'm not saying that all these vehicles are on the road, but that's the percentage of the registration of vehicles that are currently unregistered. 6%. Just going on to Social Services and I'll just have to defend the comment that again, from the Secretary of Norfolk Labour that no additional money has been appropriated, ignores the fact of the rapidly aging population as a trend of recent years. I would just like to say that the benefits, whilst they are similar to last year on history, the actual benefits that was requested was \$1.4m. The amount that we achieved was \$1.3m with another \$100,000 being reviewed at the six month mark from the Budget Review Committee and that's an increase of \$50,000 on last year so we asked for \$150,000. There's also something like \$570,000 allocated to local medical expenses. \$150,000 to overseas expenses and \$58,000 which has been included, which hasn't been included in budgeting before, which is for special benefits for pensioners with rebates in phones, electricity and licences etc so I don't believe that there were no additional funds appropriated. We most probably would like more but I don't believe that any services are lacking because of the lack of funds. The services are still carried out. We look after our elderly and the people who are sick through healthcare. It has to be said that our Healthcare Scheme for \$660 per year that we pay is like a premium in a private health fund, which is a very good premium which includes free medivac, off the island. For an excess of \$2500. To me it's a very good scheme if you look at it in that light as a private healthcare scheme. Rawson Hall. I'm just looking at the figures for Rawson hall and Mr King, I'm glad you brought our attention to that because initially we asked for \$40,000 to contribute towards the refurbishment of Rawson Hall. In my working documents here, I see it was listed in two areas and when we reviewed it, and I went through it, and the recommendation was to delete it, and I must say I agreed to it in both areas, whereas the intention was to half it to \$20,000 and that's what I always thought it was. I've only just seen this. The intention was to have \$20,000 allocated for the refurbishment of Rawson hall and then try and get some community groups on Norfolk Island to go dollar for dollar. That's the context that I mentioned last week so that will be one area that I will be revisiting with the Minister for Finance but I just skim through some of the works that we do have in place there and maybe we can find some funds elsewhere and review it at the half yearly review for at least \$20,000. Thank you Mr Deputy Speaker, I think I'll finish up on that note and I'll support the Bill

MR BUFFETT

Mr Speaker earlier in debate there was some comment about training and development and maybe if I just make a contribution that relates to that. Within the budgetary bids basically there were a number of bids, for training and development from various areas within the Administration. The CEO took an option to combine those bids and endeavour to have an arrangement where it was centrally administered and he spoke very strongly of a respectable figure in the training and development and that has been provided as you see. How it is to be accessed was one of the queries raised. For without a doubt the figure provided does not equal the figure of all the bids and that will be understood. That means that there will be some competitiveness in terms of distributing those training and development funds and that will be in the hands of the CEO. The discussions had didn't necessarily define totally the criteria but it was clear, that there were some areas in which training was needed and

required in both health and safety and occupational arrangements and so therefore there is certainly my assumption that those would be considered on that particular basis. But there is a respectable figure for training and development. It is across the Board. It is to be centrally administered and obviously will be useful in delivering services to the Norfolk Island community

MS ADAMS

Thank you Mr Deputy Speaker. We are today considering the Appropriation Bill for the financial year 2010-2011. In the Minister's budget speech last week he told us how he had looked in the cupboard and it was almost bare; and that he expected that by the end of the 2010/11 financial year it would be even barer. He also told us that he does not have a magic wand to fix the island or its finances; in fact he has told us he has had a poison chalice thrust upon him; and he has looked into his crystal ball and found us wanting. Mr Deputy Speaker there is a very well known saying and many books have been written on the subject, that one should be very careful what one asks for and what one focuses one's attention on, because what one continually focuses on, is what in fact, one will create. Does not the Bible, which we have on the table before us today say this is so. Ask and Ye Shall Receive; Knock and the Door will open. Continue to focus on poverty and lack, and that is what we will create. Mr Deputy Speaker the Appropriation Bill provides this time for the phased introduction of program-based performance budgeting with approximately 30% of the Administration's cost centres having their budgets presented in this new format. This is definitely a step forward in the right direction, and having sat in on most of the budget presentations from the various areas of the public service, I would like to particularly commend the managers for their professional approach to this new initiative and I wish them well in this new direction. I also thanks the Minister for Finance for his dedicated attention to the preparation of the Bill; a thank you also to other Members and the senior management team for their role too. Mr King in his introductory remarks last week reminded us that budget time is the time of the year when Government's conventionally give expression to new policy initiatives and suggested that the policy initiatives are probably the most important tool in the policy tool box. That budget time is the most important time on the political calendar. The time when Government's would normally set down their essential beliefs in a reasoned policy programme. I support Mr King in that view. Whilst performance budgeting is a great initiative with managers being provided financial resources to discrete activities, which are clearly described, and performance measures are put in place by which the public and the Assembly can measure their success during the year of budget implementation, I believe there is a key element missing in the whole budgetary process, year after year - the missing tool in the toolbox, to quote Mr King. The missing tool for me is that successive Assemblies have not bedded down, in consultation with the community, a vision for our future that is codified; and that provides a road map or benchmark against which each Assembly measures every decision it takes. Certainly the Legislative Assembly of the day in 1995 passed a motion re the advancement of internal self Government and maintaining that vision; but that was 15 years ago and time has moved along. The 12th Assembly put in place a strategic plan; and there have been other strategies developed from time to time; and my bringing this up today is not intended as a criticism of earlier Assemblies or this Assembly; I just see it as something we need to work on. So let me explain what I see to be the major missing tool in the toolbox. Mr Deputy Speaker, a country without a vision is a country without a future – a ship without a rudder; and whilst funds appropriated in this supply bill will of course be spent with caution, the question remains, is the overall expenditure aligned with a predetermined long term goal – a holistic vision endorsed by the Norfolk Island community for taking the community into the future. Professor Butland back in 1974 in his report on population to the Commonwealth saw we had the potential to be the best small Island in the world. One of the good tools in our toolbox was the formulation of the new brand for Norfolk Island last year; the brand The World of Norfolk – Small World – No Small Wonder. Accompanying the brand was a tag line - Norfolk Island - the Number One Sustainable Tourism Destination. I personally believe that Norfolk Island has the potential to be sustainable in every sense of the word – financially, environmentally, politically – the list goes on, and is only limited by our imagination and the will to succeed. We are already making a name for ourselves on a broader platform as being an Island striving to be a biological showpiece of nutrition farming, and that's a great start

towards achieving sustainability. We are poised to become the pilot for a personal carbon credit scheme, which if embraced by the community as a whole has the potential to bring us scientists and academics from around the world to study how we are doing it. We are poised to have the Kingston and Arthurs Vale Historic Area listed on the World Heritage Register. People who visit us see our potential – the question is – why don't we? The foregoing vision is achievable but it is up to us. To succeed we have to begin and to embrace the vision as a community. So what steps do we need to take to create that vision and put it in our toolbox as we move forward into the next financial year? I will share with you some words of wisdom from the website Bank of I.D.E.A.S of Mr Peter Kenyon who says, meaningful and lasting community change always originates from within and local residents in that community are the best experts on how to activate that change; Community residents act responsibly and support what they create; Communities have never been built, by dwelling on their deficiencies, needs and problems; Communities respond creatively when the focus is on resources, capacities, strengths and aspirations; The strength of a community is directly proportional to the level that the diversity of its residents desire, and are able to contribute their abilities and assets to the wellbeing of their community. Every single person has capacities, abilities, gifts and ideas and living a good life depends on whether those capacities can be used, abilities expressed, gifts given and ideas shared; In every community something works. Instead of asking "What's wrong" and "How to fix it?" ask "What worked?" and "How do we get more of it?" It generates energy and creativity. So Mr Deputy Speaker, let the poisoned chalice, which was handed to the Minister for Finance be turned to gold and the process of alchemy take place. Let this Assembly as part of this budgetary process lead the way and let the community consultation begin to create a shared vision for our future over the next ten, fifteen, or twenty years. And as we work today towards bedding down the legislation that will appropriate funds for the next financial year, let us at the same time also reflect on the potential and possibilities that could await us but only if we focus not on the poison in the chalice but on the blessings that we enjoy day by day. Of course we are all agreed that the money energy needs to increase but let us not forget that we are living in a world – our World of Norfolk which when compared to many other places in the world, I believe is practically perfect. We do not have the ice from the top, we don't have volcanic ash, we don't have deserts, or famines, or dead fish swimming in polluted waters, we don't have devastation from oil slicks, hot dry winds, floods and hurricanes; we don't have earthquakes, murder and mayhem or billions of dollars of debt. And were we to put a value upon the things that we do have – fresh air, valued friendships, a bonded community that still cares and looks after its elderly, that gives education priority, that ensures that its roadsides are clean and our heritage walls graffiti free, where cows and ducks are free to roam at will; a place we call home, a place where we can grow our own food, where we can fish our own waters and we can barter with our neighbours – surely these blessings should make us realise just how rich we really are. Riches Mr Deputy Speaker that are bestowed on us daily; riches which those who visit our shores from afar say remind them of a paradise they have lost. Our community began with the Bounty and we celebrate Bounty each year. Bounty Mr Deputy Speaker means abundance. With the forgoing words, I give my support to the Appropriation Bill 2010-2011.

MR KING

Mr Deputy Speaker. I thank Ms Adams for her inspiring words. I fiil kaina nehshi ef ai tal wathen ai miina tal nau. I'll have to tear up my prepared speech. There are some things that I do need to say but let me say firstly in a very moderate and kindly tone, thank you Ministers for your additional words in response to my questions. I thank you for that. It hasn't been an easy process for the ministry and especially Mr Anderson, and they have done a good job. They've done what they could. Contrary to Ms Adams, although I do thank myself for my blessings and my ability to be able to live on Norfolk Island, for a major part of my life now and the blessings that we have in this wonderful place, but I believe we can do better and we must do better and there are deteriorations taking place in our environment and in our social fabric which must be addressed and there's no point in me right now launching any attack against the austerity and the frugality of the budget, for it would be ridiculous for me to do that. It is inescapable that we are living essentially on a day to day basis, hand to mouth situation. Services appear to be dependent upon the community paying its public accounts promptly and as the

economy continues to wind down, as it is, so will the capacity of the community to pay its Administration bills. There's no rabbits to pull out of a hat, there's no crystal balls as Mr Anderson continually tells us and even if we were able to obtain the three or four million dollars that we currently have included in a request to the Commonwealth for funding, even if we were able to obtain those moneys now, it would probably go no further than to pay off some of our creditors, or most of our creditors. It certainly wouldn't be enough for us to look confidently at the medium or long term future of the island let alone would it go anywhere going near this year's depreciation or expected depreciation in 2010-11 of \$3.5m let alone the \$40m odd that we had accumulated in depreciation. At the last Sitting of the House I suggested perhaps unkindly that the budget was simply an extension of the pattern of Government that we've become used to. I indicated I think in my debate then that we appeared to go through the motions accepting things the way they are knowing that when we come up with estimates and forecasts for the budgetary period that we provide estimations which we often know will not bear any resemblance to the final outcome. We look at budgets and that's the way we do business and dars daa. We get it done and move on. Again, I stress that we can do better. I have an entrenched worry that elected representatives of our community are unable because of the fund shortfall and deficiencies to put their own stamp on things, and they don't have that ability to bring forward those new initiatives and it must be dreadfully discouraging for those elected Ministers and certainly difficult for the community to accept where they put us down here and we are unable to put our own stamp on things and we lack the capacity and often unfortunately the intellectual capacity to move forward with confidence and initiative. Those are reasonable expectations of a community to aspire to for stability and improvement in the economy but perhaps the community like many long term Members of this place have been lulled over the past decade into just accepting things the way that they are and having no aspirations to improve their lot in life. Maybe there are such people who are prepared to sacrifice normal expectations just to live in Norfolk Island. And to a certain extent I would accept that but I say to them what about their children and what about their children's children. Do they doom them to grow up not understanding that things can be done better on Norfolk Island. That this is just the way we do business in Norfolk Island. The dreaded epithet *The Norfolk Way*. As I've said, and it is understood that there is no initiative or very little initiative expressed in the budget. But I want to make some brief comments on expenditure. The Minister's have covered some of the points that I wanted to make and I won't be boring by going over a number of those things, except to reiterate my own opposition to spending \$150,000 of the plans for the new hospital. I appreciate everything that Mr Sheridan has said and he's endeavouring I would imagine to put his own stamp on things. He wants to achieve an outcome at the hospital during his term as a Minister and I understand that but I can't in the normal process of doing Government business and the likelihood that we would probably need to go, or the only likely source of funding would be the Commonwealth, spend money which they are going to turn around and say was premature, that they would want to involve themselves heavily in the planning of the hospital if they were to provide funds of the size and nature that we expect to look for in that area. I believe that given our heavy reliance on people paying their bills as promptly as possible, on receipt of invoices, that, that money might perhaps be better spent on strengthening the computer system which produces our invoices and creditors and debtors system. We all know that the Burroughs system is some 26 years old and on the point of falling over. I wonder whether the Government has actually considered the consequences of that falling over and the inability to be able to get invoices out to the community and receive payment of them promptly. To my way of thinking it's simply a disaster waiting to happen. I thank Mr Sheridan for his words in relation to pensions and related medical expenses. I am of course, or I think I'm aware under the new arrangements as in the old arrangements that appropriation won't be necessary to appropriate additional moneys or to fund additional pension payments. I am looking for a nod of the head. I can't see it at the moment but as I understand the existing situation, additional appropriation measures are not required to provide additional funds for pensions and I accept and I hope that, that measure exists in the current re arrangements. In general the expenditure is somewhat unremarkable. There's no room for cuts. In fact quite the contrary. I don't believe expenditure in some of the businesses, particularly in the airline, can be maintained to the levels forecast in the budget. I remind Members once again that

the airline is the major item in our fiscus. Its operating income is around \$22m. It's treated under the new combined budget as revenue. Surely I don't necessarily agree with that but in the budget before us it represents some 39% of the total revenues. Of course we are able even more now to corporatize and capitalize that business so we have to accept, that forms part of our combined fiscus at the moment. That 39% of our revenue distorts the picture of our fiscus. Of the overall financial picture. As I pointed out, as a large ticket item the movement of only 1% in the airline bottom line margin can result in a variation of \$200-250,000 in our overall budget outcome. Mr Anderson made reference today to the financial indicators for last month, for May and how those figures can change materially and quite significantly. I discussed these things with Mr Anderson previously in respect of variations in the major cost items in the airlines. A planned deficit of \$500,000 relies on the airline achieving cost savings of some 6%. Somewhere in the region of \$1.2m-\$1.5m and to any reasonable person of course that's very, very highly ambitious, perhaps even unrealistic. I would suggest it's unrealistic. I hope it's not but I would suggest that it is. Not only does the forecast budget income rely heavily on the airline operation achieving those considering cost savings, it relies equally in dollar terms on achieving 29,000. An increase of some 7.5% and if we don't achieve that number we can reasonably expect a blow out of a similar amount of \$1.5m so there are two significant matters which impinge on the Government's expected budget outcome by a combined total of up to \$3m. Both these areas are in Mr Nobbs' portfolio responsibilities. A huge burden of responsibility and I don't know how comfortably that burden sits on his shoulders but it is a huge burden of responsibility. Mr Anderson has indicated that he did not agree with underpinning the budget with an expected increase in tourism to 29,000. He expressed a preference for the budget to reflect greater caution but was apparently overruled by his executive colleagues who appear to have successfully wrested control of the budget process from the Minister for Finance. That is regrettable because firstly there is not one indicator or factor that we can hang our hat on which justifies an expected 7.5% increase in tourist numbers. It is a number based solely on hope and a prayer and perhaps a wish. One needs only to look at the tourism forecasts of the last Legislative Assembly and the last Government over the past three years to decide whether the confident and unqualified support Mr Anderson's colleagues have expressed in Mr Nobbs is validated or misplaced. I don't want to particularly pick on Mr Nobbs all the time but I have to, to make my point. I quote the forecasts that were made in each of the past three years and what the outcome actually was. In the 07/08 year the forecast underpinning the budget 16% increase in tourism. The result was a fall of 4.3%. In the 08/09 year the forecast movements in the budget of +4.5% increase in tourism. The result was a decline of 17%. Underpinning the budget for 2009/10 was a forecast of 29,500 to remain at par with the previous year. It in fact fell as we know depending on the outcome of the June figures; it will fall by 9 or 10%. The budget for 2010-2011 we forecast a 7.5% increase in tourism. It is difficult, very, very difficult if not impossible to consider that, that outcome will be met. Let me close by saying that the elements of accountability and transparency that have been introduced to the budget process and the attempt by Mr Anderson to restore honesty and credibility are welcomed and are very commendable. It is unfortunate however that among these positive elements that I believe these revenue estimates have been inflated by unrealistic tourism expectations. Unfortunately because I cannot identify any justification for the projected increase in tourist numbers I can only conclude that the estimate is designed to make the outlook or the public finances look more optimistic than it actually is or is likely to be and sadly I see that as being as much misleading as some of the financial misinformation that came from this place over the past three years. I will support the Bill Madam Speaker. It would be silly not to because appropriation is needed to fund supply, but of course I will watch with interest as the year unfolds, Thank you very much

MR ANDERSON

Thank you Madam Speaker. I would just like to thank all of the Members for their comments and tell them that I'll take on board their suggestions and criticisms. I would just like to take Madam Speaker back to two of her quotes. "Ask and ye shall receive" I think we've been asking for quite some time now and even today we mentioned the \$60m worth of applications that have been made for capital expenditure when the Commonwealth was passing out funds to other States and Territories and yes, there is still an application on foot in relation to about \$3.5m worth of funding. So we've

asked. "Knock and the door shall be opened". I wonder if we've knocked or whether we are still knocking. The difficulty seems to be in getting through, so I would say that no one denies the potential available with Norfolk Island but at the moment it's the capacity to exploit that potential that is our problem

MR SNELL Thank you Madam Speaker in listening to the comments here this afternoon it's certainly no doubt that we are in for a difficult period particularly over the next financial year. I agree with Mr King that funding for the plans for the new hospital is questionable at this time when you consider that we don't have the funds to take it much further than just the plans and I agree with him also on his suggestion that perhaps we should be looking at upgrading the financial accounting system within the Public Service that has been asked for on many occasions of those responsible and over many Assembly's moneys have been allocated but regrettably they haven't come to fruition in gaining satisfactory results over there. We should consider of course, why all this has happened. We know of the global financial crisis and the downturn in tourism is a major contributing factor to our satisfactory financial situation as we see it today and as my policy states and I've said on many occasions that I feel that tourism here has declined to such an extent where we must review the whole situation of our tourism and I agree with Mr King that Mr Nobbs has a huge responsibility on his shoulders to try and arrest this downturn in this major industry but I agree with the Appropriation Bill and intend to support it. Thank you

MR NOBBS Thank you Madam Speaker. I welcome it. I welcome the responsibility of taking on this challenge. I welcome the fact that the number that is projected of 29,000 isn't just based on hope, it's based on a number of additional mechanisms that will be available in the short term, many of which have been contracted to expand our co share capability, to expand our distribution through the travel industry, to further provide access to travellers to Norfolk Island as well as to make retail and wholesale much more transparent in people's ability to book travel to Norfolk Island. In saying that, I also point out that we have for perhaps the first time, a large interest in foreign travellers, who would like us to review our methodology to get them here in large groups and that's something that the entire executive has looked at and is progressing at the moment. I will admit, the tourism landscape is difficult at the moment. There is no getting away from that. We've seen that in May, we've seen that in relation to the figures that the Minister for Finance and The Attorney-General presented earlier with the \$343,000 loss for May. However, I will further point out that the budget that the CEO for the airline proposed, that will be ending at the end of this June is pretty much on line with exactly what he promised. There is always of course, room for us to look at the balancing act, as I said earlier, in terms of what discounts and other things that we are able to provide to further entice people to Norfolk Island and of course, all those things are issues that the airline board, the executive, myself individually and all of us around the table are open to propose as ideas and initiatives. Before I go any further I just wanted to say that I thoroughly endorse Mr Sheridan's plan to develop hospital plans. We have had numerous occasions in the past where we've had visits from officials who would have liked to have known what capacity they could assist with the hospital, with no firm structure to how they could assist, many of them have moved along so I congratulate him on moving that forward and I certainly look forward to the plans being developed and us making forward steps. Not just standing still because we can't stand still at the moment. I just want to add some further weight to the numbers, in terms of talking about the 29,000 and that is as you have talked about Madam Speaker the branding has been completed. There is a reasonable amount of promotion materials and graphic and the like, the new General Manager for the Tourist Bureau have utilised those contractors and focused their abilities and capacities and sought to have key performance indicators across their areas, so that we can ensure that we get absolute value for money in moving forward with our tourism numbers. World Heritage Listing is worth mentioning because it does expand our capacity to further promote ourselves and to gain a further market. Let's not forget New Zealand. New Zealand for us has been a longstanding market and there's certainly room for us to improve that and that is another areas that we are working on at the moment and have been for some time, but making a dedicated effort with not only the New Zealand media and suppliers but also with Air New Zealand in terms

of ways that we can move forward on a more proactive partnership. I just would also perhaps finish by saying that in some of the commentary around the table there's been an indication that Norfolk Island has done poorly or is doing poorly. I can assure everyone that Norfolk Island is recognised on numerous levels for many of the things that we do and I can tell you from personal discussion with many of the other parliamentarians from other places, such as King Island that recognise Norfolk Island as not only a tourism destination but as a tourism power house in terms of the mechanisms that we have in place. We now have to make sure that all those mechanisms are working for us. We have to make sure that the budget is appropriately used and that every aspect of the structure works for us and that's in my portfolio and that's exactly what I'll be doing. With regard to other positives, we've talked about the potential for additional expenditure and it is well worth a mention. It's always the case that you have to prepare as the Minister for Finance has but issues that can arise through accident, through natural disaster or any of those type of issues, but some of the revenue that has been more conservatively listed has been in the areas that deal with some of the e commerce, the additions to our bandwidth which comes on line very, very shortly, the additional revenue from roaming, there has been significant interest in some of the opportunities that SPIN offered that now we can view the opportunity however perhaps through another provider if SPIN doesn't come to the full fruition. That's probably all that I have to say other than I certainly congratulate the Minister for Finance and all who have been involved in bringing this budget forward. It is, as we've mentioned a maintenance budget at a careful time, but that's not to say that we're not moving forward and we're not being pro active

SPEAKER Thank you Minister Nobbs. Is there any further debate on the question that the Bill be agreed to in principle. I put the question that the Bill be agreed to in principle

QUESTION PUT
AGREED

The Bill is so agreed to in principle

I look now for guidance. We now move to the detail stage. Is it the wish of the House to dispense with the detail stage. We so dispense. I call on Mr Anderson for a final motion

MR N CHRISTIAN Mr Speaker I move that the Bill be agreed to

SPEAKER Thank you Mr Anderson. Any further debate? The question is that the Bill be agreed to Honourable Members and I put that question

QUESTION PUT
AGREED

Thank you. The Bill is so agreed to

Honourable Members I'm mindful of the time but there is only one scheduled matter remaining on the programme. We move to Order of the Day No 2

CHILD WELFARE (AMENDMENT NO 2) BILL 2010

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

MR SHERIDAN Thank you Madam Speaker, I'll just say few more words. I think I said most of it previously, but there is one issue that has come to the fore in regards to this Bill and it's to do with the reference to the community advocate and the official visitor in the explanatory memorandum that was presented when this Bill was

tabled and this Bill, I'll just reiterate a little bit, and this Bill removes from the present Act references to a community advocate and an official visitor, or it's supposed to have. These positions complicate a system that is not, and is unlikely to be, burdened by the need for the services of such persons. The proposed amendments will not have an adverse impact upon the welfare of children and young persons. Madam Speaker, that's what the actual Child Welfare Bill entails and unfortunately I am again, some errors have crept in that I'm trying to rectify. In researching the Bill and its passage from initial drafting to the tabling of the Child Welfare Act 2009, I was made aware that this Act started its life as the Children and Young People Bill back in 2006 when it was initially drafted but was left hanging until it was revived in 2009 at which time it was decided to remove issues dealing with liability of children. When the draft Bill was revived in January 2009 it was decided to remove references to provide for a children's Court division in the Court of Petty Sessions and to amend the old draft of the Children and Young People Bill so as to avoid having to deal with children and court proceedings. This line of thought was to ensure and enable the legislation to put the concerns of the children first and foremost, and in so doing, taking away the children's court division meant that this excused the children from the pressures that a court system produces. In the principle bill of 2006, the Children and Young People Bill there was numerous references to a Community Advocate and official visitor, in both the Bill and the Explanatory Memo. When the decision was made to remove the references to provide for a children's court division, amendments were made to that Bill and renamed the Child Welfare Bill, unfortunately when deleting clauses and there were something like over 100 clauses that were removed, which related to the children's court and associated provisions, some of the references were overlooked resulting in the changes that I bring to the House today. Also the same thing has happened to the explanatory memo, whereas when editing the explanatory memorandum from the Children and Young People Bill to the Child Welfare Bill explanatory memorandum, some of the old terminology was overlooked. Madam Speaker, it is unfortunate that this has happened and that these references were not picked up on prior and especially when tabled in the House in 2009 but what I am doing is attempting to rectify these errors by this amendment.

MRS WARD

Thank you Madam Speaker I understand that this is not the appropriate time to question the original drafting of the legislation and Minister Sheridan knows that I question the removal of the community advocate from the process in the first place so I thank him very much for that additional information. The Minister's amendments today relate to those matters of the community advocate as well as record keeping, contact limitations and the courts final protection order and I have no doubt that the House of the day intended to provide protection to a vulnerable section of our community and I intend to support the Bill as proposed by Minister Sheridan because it proposes that only to correct drafting errors

MR KING

Thank you Madam Speaker I will be supporting the Bill as well but not without first taking the opportunity to say a couple of words. Not as much as I intended to but I thank Mr Sheridan for his words and his explanation or excuse for the drafting errors that occurred. I hope he doesn't spend the rest of his three years going around putting out spot fires. A couple of things seriously concern me. Not only the level of error but when the Bill was introduced in July 2006 there were several references I think Tim has actually pointed this out, but there were several references made to the role of the community advocate and that gave quite properly the community to understand that there was an active role in the community advocate contemplated and that was not the case and in that respect the explanatory memorandum mislead the community into understanding. Certainly those who had an interest in matters relating to child welfare were given to understand that, that particular aspect of the area had been given consideration and included in the mechanisms and provisions of the Bill. That was not the case. It clearly had been removed from the Bill long before the Bill even got into the Parliament as Mr Sheridan has pointed out, and debate took place somewhere, sometime about the community advocate and whether or not to have a community

advocate. The community wasn't privy to that debate that took place. All they were given to understand was that, that concern had been catered for. Now I know that this Bill is not the place and there is no ability to resurrect the issue of the community advocate and allow the community to hear or participate in a debate on whether a community advocate ought to be engaged but I would hope that, that opportunity will arise some time in the future so that concern for those who have an interest in that area, can be properly satisfied. I will support the Bill. Thank you

MR SHERIDAN Thank you Madam Speaker and thank you Mrs Ward and Mr King for their comments and I'll take on board exactly what Mr King says in regard to the community advocate. Once a Child Welfare Officer gets appointed and the Bill or the Act commences in its fullness, of course after a period of time if it is deemed to be necessary, that there is a requirement for a community advocate I'm sure that it can be revisited in that light, so it's not a closed shop, not a closed door. I appreciate Mr King's comment and once this Act has commenced in its fullness those issues will be taken on board

SPEAKER Any further debate. I put the question that the Bill be agreed to in principle

QUESTION PUT
AGREED

The Bill is agreed to in principle

We now move to the detail stage. Is it the wish of the House to dispense with the detail stage. We so dispense. I then look to Minister Sheridan for a final motion please

MR SHERIDAN Thank you Madam Speaker I move that the Bill be agreed to

SPEAKER Thank you Mr Sheridan. Any further debate? The question is that the Bill be agreed to Honourable Members and I put that question

QUESTION PUT
AGREED

Thank you. The Bill is so agreed to

FIXING OF THE NEXT SITTING DATE

Thank you Honourable Members we move to the fixing of our next sitting day

MR KING Madam Speaker I move that the House at its rising adjourn until Wednesday 28 July 2010, at 10.00 am.

SPEAKER Thank you Mr King. Is there any debate Honourable Members. The question is that the Motion be agreed to.

QUESTION PUT
AGREED

The motion is agreed

ADJOURNMENT

MRS WARD Thank you Madam Speaker I move that the House do now adjourn

SPEAKER Thank you Mrs Ward. Is there any further participation in adjournment debate Honourable Members. There being no debate I put the question that the House do now adjourn

QUESTION PUT
AGREED

Therefore Honourable Members this House stands adjourned until Wednesday 28 July 2010, at 10.00 am

