

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 5th DECEMBER 2012

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[9:30]

The Roll was called and the Dean led the Assembly in Prayer.

PUBLIC BUSINESS - resumption

1. Draft Budget Statement 2013 (P.102/2012): fifth amendment (P.102/2012 Amd.(5))

The Bailiff:

The Minister for Treasury and Resources has lodged a fifth amendment to the Budget, that is Project 102/2012, and presumably, Minister, you will be asking the Assembly to agree to take it straightaway?

Senator P.F.C. Ozouf:

As my colleague, the Minister for Home Affairs said, it has come to me pleading the fifth amendment, which is perhaps not a great position. I do have to seek Members' permission and that is, so they completely understand, that while yesterday's amendment does not result in a consolidated fund deficit Members might want to turn to page 55 of the Budget statement, which shows that the balance in hand of the Budget proposals were £19.7 million. We always attempt to try and keep around £20 million in the consolidated fund for the variations of income. This amendment would not, as a result of the Assembly's decision yesterday, mean we were in deficit but we are trying to ensure that we do recover some of the lost revenue and hence I am asking Members to consider an increase on the level of tobacco. I ask Members' leave to permit me to debate a fifth amendment.

The Bailiff:

Does the Assembly agree to take this amendment straightaway? I will ask the Greffier to read the amendment.

The Deputy Greffier of the States:

Page 2, paragraph (a) - after the words "as set out in the Budget Statement" insert the words - "except that the estimate of income from taxation during 2013 shall be increased by £395,000 by increasing the proposed increases on tobacco duty from 10 per cent to 13.2 per cent."

1.1 Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

The proposal is simply to effectively do half of the proposed amendment, which has been withdrawn from yesterday. We speak in terms of tobacco revenue in the simple unit price of an equivalent packet of 20 cigarettes. There is of course a much more detailed calculation which is within the legislation but, to put it simply, I am proposing to make a further increase to recover £395,000, which would be the equivalent of 50p on a packet of cigarettes. I move the amendment.

The Bailiff:

Is the amendment seconded? **[Seconded]**

1.1.1 Senator S.C. Ferguson:

I feel great sympathy for the Minister for Treasury and Resources this morning: he is faced with an extremely difficult decision. Does he follow the dictates of Health and put the price of tobacco up thereby reducing the money available for Health or does he leave the price as is and collect more money, which he can put into Health? He is damned if he does and he is damned if he does not. If I can help, the graphs in the Corporate Services comments at page 13 - I am sorry to keep referring back to them, but a picture is worth a million words - are a good indication. The amount collected from tobacco impôts has been falling steadily. The consumption has been falling steadily so if we put the price up again the amount collected will continue to fall. Why are we doing it? Yes, it is

perhaps good for people's health but is it that or is it that the Minister needs the money to put into health to cope with all the other things. We have been putting it up steadily for the last 10, 15 years and we are well into the trend where an increase in the impôts will mean a fall in consumption. We will, in effect, drive smokers further offshore collecting their duty free. The Corporate Services Panel had a hearing recently where the Customs officer stated that they estimate that 30 per cent of cigarettes smoked in the Island are duty free. Any increase will increase that trend. It is a very simple choice. Do we vote for the increase and reduce the tax take for the Minister for Treasury and Resources or do we vote against it and at least maintain the tax take?

1.1.2 Deputy R.G. Le Hérisier of St. Saviour:

Very briefly, and partly related to Senator Ferguson. I have not seen a more Monty Pythonesque kind of scenario like the one that was played out yesterday in the sense that we were playing around constantly with 3 taxes. We are playing around with totally contradictory arguments that surround those taxes, which the Senator has just alluded to, because we are so afraid of attacking certain parts of the tax governor in this Island. It may be the issue will open out when Deputy Southern's amendment comes up later and there will be broader discussions about the balance that exists within the tax system. But I am getting increasingly frustrated at this dancing on a head of a pin and playing around constantly with these 3 taxes as opposed to taking a much more overall look and being prepared to challenge what previously have been the unchallengeables.

1.1.3 Connétable L. Norman of St. Clement:

Again just briefly, Deputy Le Hérisier mentioned contradictions. I am wondering if the Minister for Treasury and Resources could explain to me what has changed since the Budget was lodged because when the Budget was lodged he stated in the media, and I assume he was reported correctly, that he was increasing the duty on tobacco to the maximum he could so as not to encourage smuggling of these products, which in itself has received publicity in the media. But now and coincidentally - I suppose it is a coincidence because Deputy Baudains won his amendment quite correctly - the Minister has no problems with encouraging smuggling and indeed he now quotes the Customs and Immigration Service that they are satisfied that the increase is not going to require them to allocate extra resources. What has changed between the statement he made lodging the Budget and the statement he has now made after Deputy Baudains won his amendment?

[9:45]

1.1.4 Senator L.J. Farnham:

I really think the Senator should perhaps stick with the original plan of 38p a packet, and this may come as a surprise because I am no fan of the way tobacco is imported into the Island. That is something I hope the J.C.R.A. (Jersey Competition Regulatory Authority) comes to grips with fairly soon, and perhaps the Minister for Treasury and Resources could allude to that in his response because that is an issue that has been going on for years and years and it is depriving the Treasury of revenues. But in these straightened times I maintain the same argument against this as I would have done had I been present for the amendment of the Constable of St. Helier, and I reluctantly voted against Deputy Baudains' amendment because I was content with a 1p increase in fuel duty as proposed by the Minister for Treasury and Resources. But, whether we like it or not, and of course there are very valid health reasons for the way we price tobacco, but if we are really serious about it we would not have our own duty free shop at the airport and be encouraging massive sales of cigarette products and being completely hypocritical about this. Yes, the Minister for Economic Development is looking at me with a puzzled expression on his face and quite rightly, he says, it pays good money. That is really what is behind all of this. We have also to bear in mind that we are still in recession and whether we like it or not a good proportion of the

population does smoke and does enjoy tobacco, and we are going to be hammering them and taking more money out of their pockets, which I think is wrong and given these times, so I am reluctantly not going to support this amendment, but I think the Minister for Treasury and Resources should stick with his original proposal.

1.1.5 Senator B.I. Le Marquand:

I rise firstly to give my support to the Minister for Treasury and Resources' amendment. I think we are all well aware of the linkage between tobacco consumption and serious illness of a whole variety of different thoughts, but the reason I really rise is the issue of smuggling to explain the position, as I understand it, from the point of view of the Customs and Immigration Department. It is correct that in the last 12 months they have experienced some difficulties and some workload in relation to people attempting to bring in more than they should but that seems to have been caused primarily ... it is not caused by systematic smuggling, it is caused primarily by the practice of some duty free shops elsewhere of selling things like packs of 1,000 without warning people of the fact that when they get on the other end, if it is a Customs area, they are not going to be able to bring them through. The position, as I understand it, of Customs on this is that there is a point where if the tax was raised by too much, commercial smuggling might well come into play; it does not, at the point of the previous proposition, and it would not either at this particular point, but we do need to be aware of that if much larger amounts were being proposed. So I support this. I do not think there is a problem in relation to smuggling. In fact, if I could just finish off on the point of the difficulty they had had, what they have been attempting to do is engage with the duty free shops in other places and try to make them more responsible and to understand that it is not good sales practice to be selling things to people without warning them that they will not be able to bring them in. But I see no difficulty with this particular amendment.

Senator L.J. Farnham:

Can I have a point of clarification from the Minister? The Minister said if one brings in more than his allowance they would not be allowed to bring them in. Surely that is not accurate. If one pays the duty on the extra then one is perfectly entitled to bring them in.

Senator B.I. Le Marquand:

That is absolutely right. Sorry, I was trying to explain the nature of the problem which they had experienced but of course people bringing them in are perfectly entitled to pay the duty on so doing; that is absolutely correct.

1.1.6 Connétable A.S. Crowcroft of St. Helier:

My question to the Minister for Treasury and Resources is similar to the Constable of St. Clement. My understanding is that the smoking public were prepared for an increase of a certain level and because of something that happened in the Assembly yesterday they are now going to have to cope with a bigger increase in the cost of tobacco. I am just curious to know whether the Minister for Treasury and Resources thinks that is fair that a proportion of the public without any consultation or indeed any warning, because of something over which they have no control, are going to have to deal with a much bigger increase. Is that fair? Should there not be some kind of consultation, at least a warning, that this will happen next year and the greater amount will have to be raised in the coming year? Is this a question for the Minister?

1.1.7 Connétable P.J. Rondel of St. John:

I am fully supportive of this specific increase and in saying that could the Minister look seriously, along with the Minister for Health and Social Services, of introducing a green packet scenario as happens in Australia and thereby we cut out all the advertising on cigarettes. It will affect the revenue to the Budget but he will have to look elsewhere in years to come obviously for revenue,

but I think we need to be sending out a strong message, as has been introduced in Australia. There you buy a green packet of cigarettes, it does not matter who makes the product. They also have these labels, as I explained yesterday, these gruesome labels on the outside with a picture of somebody with throat cancer or eye cancer, et cetera, and they really made me feel ill. I think if you want to stop issues to do with smoking we need to be looking at alternative taxes and I did say yesterday, tongue in cheek... a tax in relation to my doom and gloom colleague here on the left who was going on about beef burgers, that we have to find alternative ways of raising taxes other than hitting the same ones year in, year out. Will you take that on board and work with the Health Department in bringing something forward that we stop smoking, where possible, altogether?

1.1.8 Connétable J.M. Refault of St. Peter:

I am delighted to follow my grumpy colleague to my right. It will come as no surprise that I am going to support the Minister for Treasury and Resources on this one. It is an unfortunate consequence of what we decided in this House yesterday, in the Chamber yesterday, and there are always unintended consequences when we make last minute changes. I am also not going to disappoint Members to give them a little bit of a health warning again this morning. I would like to just read out a very short passage for Members: "Public Health disappointed that the smoking ban has not reduced more in recent years, but the initial fall in 2007 when the smoking ban came in has been maintained. It is clear from these results and from those of previous years that we need to do more to reduce the smoking prevalence in Jersey." This has been identified in the Tobacco Control Strategy. Regulations around advertising promotion and display of tobacco products are due in 2013 as well as a prohibition of tobacco vending machines. Preventative programmes in schools have been added to and the number of children who have never smoked is increasing. This will hopefully follow through to the adult population in future years. I look forward to the day when the Minister for Treasury and Resources can no longer put any further taxes on cigarettes because no people are buying them. I say that from personal experience. In my family my mother died far too young from smoking. I have an older brother who is waiting for heart and lung transplants in the U.K. (United Kingdom) through smoking so I fully support this amendment.

1.1.9 Connétable D.J. Murphy of Grouville:

I am very uneasy about this. I think people must realise that smoking is an addiction. It is not just a way of passing the time or sitting in the pub drinking with a cigarette. This is an addiction and it is a very, very serious hard addiction. In some cases it is known that it is harder to give up smoking than to give up heroine. Please, what I would say is either channel this money into helping people to give up their addiction, or indeed perhaps just keep it low key for the moment, bringing it in more gradually than you are trying to do now. This is a hammer to smash a walnut and I am afraid that it is not really going to work because, as people have already said, you are going to encourage smuggling to get them in, to get them cheap. People will do anything to keep their addiction going. You must help them to get over that addiction. That is the most important bit and this is not helping.

1.1.10 Deputy G.C.L. Baudains of St. Clement:

I am alert to the difficulties facing the Minister for Treasury and Resources and he has a very difficult task, and all I can say is I am glad I am not doing it. **[Laughter]** On the other hand, if I were **[Laughter]** ... Senator Ferguson raised the issue of possible diminishing return. That was one issue. I am basically concerned that first of all, I mean we are talking about the dangers of tobacco and therefore it is a good idea to raise the taxation but I do not think we should lose sight of the fact that this is ... that is part of it, but what we are talking about here is raising revenue and, in my view, there is danger in addressing symptoms rather than the cause. As such, I hope the Minister for Treasury and Resources will look for a fresh initiative to replace the C.S.R.

(Comprehensive Spending Review) because plainly it is not working. We are happy to squeeze all the pips in order to get as much money as possible in order to balance the books against our expenditure. To me it is the expenditure which is getting out of control because, as I said yesterday, if we did have it under control then we would not face the reality of yearly expenditure rising above inflation year on year. We really do need to look at that because if we carry on squeezing the pips one day we will probably squeeze the wrong pip and the mess will be our economy. One question I would have for the Minister for Treasury and Resources is does this - I presume it does and I hope it does - include tobacco and cigars as well as cigarettes because I have been concerned for some time about the generalisation that surrounds tobacco as if it was something that was totally avoided whereas in fact there are some benefits of tobacco. I am not talking about people who smoke 60 a day, they should know better. I mean, for example, I will not go into great lengths, but one of the benefits is that tobacco is the most powerful germ killer known to man.

1.1.11 Deputy J.H. Young of St. Brelade:

I rise to be 100 per cent in support of the Minister for Treasury and Resources. As a young person I took up smoking for 5 or 6 years and I think it is cultural reasons. A lot of young people get drawn into that. I think as we live in a society where people have a free choice and we do not ban things we need disincentives. We do not have any other measures to do it and we need to be very clear in our message, so having a tax which is a disincentive to young people starting smoking. We also know for those who smoke already that giving up smoking at any age in life I think, if I read the literature correctly, gives some benefit. When one meets people who suffer from the terrible morbidity... it is not just that people die early, it is their morbidity from bad circulation problems, difficulty in walking, difficulty in breathing, having to be permanently on oxygen and so on. When you see those things many of those people now regret having taken up smoking. I think we need to be clear in our messages and having disincentives in place, just following Senator Ferguson's argument, I think if it does result in less smoking and less tax great because the end result will be less health expenditure and liabilities and costs on society. I think the tobacco industry is the only one, as far as I know, that has to find new customers to replace those that lose their life through using its products. I think it is about time that we had some clear strategies and a disincentive in place and I say that as an ex-smoker.

1.1.12 Deputy J.A. Martin of St. Helier:

I just have a couple of questions for the Minister for Treasury and Resources and he can confer with the Minister for Home Affairs before he sums up. Firstly, I am a bit confused about the 50p maximum because we will have wholesale smuggling. It would follow through that if this amendment is supported taxes on cigarettes can never rise again because we will have wholesale smuggling.

[10:00]

I need the Minister for Treasury and Resources to answer that question because in a time of minimum wage not covering inflation and wage freezes we cannot say people can afford it. To the Treasury it is ...

Senator B.I. Le Marquand:

Can I clarify that, Sir?

Deputy J.A. Martin:

I will give way.

The Bailiff:

It depends whether the Deputy gives way or not.

Deputy J.A. Martin:

I have not addressed a question to the Minister for Home Affairs. The next bit is directly addressed to the Minister for Home Affairs and it is the question of, if the Minister does want to keep raising the duty on cigarettes he does need to have a serious conversation with Customs through the Minister for Home Affairs that what was said by the Connétable of St. Clement was correct. If people do try and bring more cigarettes in than they are allowed they can either pay the duty or 9 times out of 10 they are confiscated and they walk away. I do not know anyone that is prosecuted. I see this many times at the airport and it has happened to people. If there is no deterrent people will carry on keeping: "Let us chance it. I have paid X for them and they are duty free anyway. I may pay the duty if I want to or I can walk away from it." I think we have 2 problems here. We either believe the Minister for Treasury and Resources is not trying to raise ... well we know he is trying to raise money but as far as I am concerned if this is as far as you can go we could probably all live with this debate on the reassurance from the Minister for Treasury and Resources that cigarettes will never rise again in duty.

1.1.13 Deputy G.P. Southern of St. Helier:

I too, like Senator Ferguson, have got a great deal of sympathy for the Minister. He is trying to balance his budget, which is obviously unbalanceable since there are major issues still to be resolved with public sector workers, and he has committed himself absolutely to no major, significant increases in tax rates. Therefore, he has taken out of his hands - he has put it down - the dream of all tax collectors which is G.S.T. (Goods and Services Tax) and he has said: "I am going to leave that alone", and for once he is sticking to it. The Connetable of St. Clement was right when he said: "And what is the argument for this 'bash the smoker'? It is the easy target." We bashed the drinker yesterday and now we are bashing the smoker. The easy targets. What is the difference between Tuesday and Wednesday when Tuesday there was a complete argument why he could not go further than this and then come Wednesday: "I am going further than this in order to balance my budget and we like to keep around a £20 million float"? Words to that effect is what we just heard the Minister for Treasury and Resources say and yet what we are talking here is £400,000. Around a £20 million float is around £20 million with or without this £395,000. It is there anyway. With or without this amendment the budget is balanced. You just rewrite the numbers and the amount in the float will be slightly less. Balanced budget. Do not feel, Members, that you have to vote for this in order to get balance. Not quite the case. £20 million in the float, that is the reality. But I do feel sympathy for him and we might have a different debate in a few minutes' time.

1.1.14 Deputy A.E. Pryke of Trinity:

As you expect, I fully support the Minister for Treasury and Resources and let me just tell you, smoking does kill. It is a simple fact of life. Smoking kills about 150 people in Jersey and if we could ban cigarettes I would support that. If he wanted to increase tax by £1 a packet, I would support that because I am here to save lives. Not only will it save lives from lung cancers but also a high proportion of neck and head cancers. I know that several months ago people were questioning the cancer rates in Jersey and the high rate of head and neck cancers. Here we are, this is the reason. People do smoke. We have had a decrease in smoking but there is still a long way to go. I am fully supportive of the Minister for Treasury and Resources. Constable Rondel - he is gone - let me reassure him that there are health picture warnings on all packets of tobacco and as he says, as he commented like the ones in Australia, they do show the side effects of smoking with vivid pictures of head and neck cancers and I think they show a pair of lungs of a person who has been smoking. If it stops a person from buying at least one packet of cigarettes more in a week by this

increase then that can only be but a good thing. Constable Murphy said about the addiction. For some people yes it is, but there are programmes. Because it is an addiction, it does not mean to say that you should not stop smoking. There are programmes, help to quit, run by G.P.s (General Practitioners), run by pharmacists, run by Health itself. We are there to help people to stop smoking. This House, back in 2010, approved the Jersey Tobacco Strategy and it was agreed then to employ fiscal and legislative measures in order to address the demand and supply of tobacco products. This is part of our strategy. This is part of what this House approved back in 2010. I will leave it at that and I fully support and ask Members if they really care, if this is only a small way, about our cancer rates please support the Minister for Treasury and Resources.

1.1.15 Deputy S.G. Luce of St. Martin:

Deputy Southern says: “Do not feel that you have to support this amendment”, and he is quite right. You do not feel you have to support Deputy Baudains. You do not have to support increases in other forms of taxation. What we do have to do is to think about how we are going to balance this budget. If we continue to knock the Minister for Treasury and Resources and stop him raising funds, which allows him to balance the budget, we then, at some stage in the future, will have to face some even more serious consequences of taking money away from things that we really want to do. Tobacco volumes have fallen every year for the last 15 years and the Minister has taken into account that next year he is expecting volumes to fall further. I believe that he has allowed for that in the money that he is expecting to take. I would ask Members to think very carefully about what has been said about tobacco and the harm that it does to people and the effect it has on the Island as a whole and our health service. I would also ask Members to think carefully about how they intend to balance the budget if they are not going to support the Minister for Treasury and Resources.

1.1.16 Deputy M. Tadier of St. Brelade:

[Aside] What we have understood today in this Assembly is that we make policy by unintended consequences. What happens is we have a Government here who says we have to tax all these different types, whether it be fuel, whether it be tobacco, or whether it be alcohol. It does not really matter what we do. We say ostensibly that the reason we tax alcohol is to change behaviour and the reason we put fuel on cars is because obviously we need to pay for the roads and somewhere in the background there is a little green bulb in the Minister’s brain which says: “Yes, we should be doing this for environmental purposes.” What we have is a Back-Bencher comes with an amendment and says: “Do not tax fuel.” We do not tax fuel because that is populist essentially. It is not wrong, it is just populist. Everybody uses cars. Smoking is a minority sport so we harm the minority interest group, if you like, in that sense. Before you know it the 10 per cent figure which I suppose would have been sacrosanct before because certainly I am sure if I had challenged the 10 per cent figure for tobacco the Minister would have said: “Oh no, we have studied this for very many months and weeks and we have come up to the fact that 10 per cent is the optimum rise for duty in tobacco”, and of course like that overnight: “Oh no, it is 13.2 per cent, that is what we need.” I would say, why is that? Of course, we know the technical answer is simply mathematical but it is not part of planned policy. I think that is the key thing in Jersey. We do not have planned policy. We do not have mandated politics and goodness do we not realise it more and more every couple of weeks when we come to the States Assembly. Petrol, alcohol, fuel, it does not matter so long as we get our pound of flesh. Ideology is just there in the background to try and dupe us into what is essentially a mathematical balancing problem. We have heard a lot of arguments I think that basically say: “I do not like smoking, therefore we tax it.” I think the Minister for Health and Social Services has probably come out with the most perhaps consistent position in the sense that she would like to ban smoking. That is fair enough but we run a very fine line of risk when we start to moralise in this Assembly especially about things that are legal and which we have the power to change and make illegal if we do not like them. If we are going to stand up in here and say:

“Smoking is bad for you. You should not smoke, et cetera, and we are going to tax you out of existence”, we have to question why smoking is legal in the first place. I think we also need to look at the graph of harm which has been done by experts in terms of drugs. Everyone will be familiar I am sure with the infamous Professor David Nutt from the U.K. There was a graph produced by several experts in drug harm in the U.K. and which drug comes top in terms of both harm to others and harm to users? It is alcohol of course. That is right at the top almost exponentially curving round on that graph. Tobacco is sixth down on the graph. The drugs that are more harmful than that being cocaine, methamphetamine, crack cocaine, heroin and alcohol. Below that you have cannabis. You have things like anabolic steroids, ecstasy, L.S.D. (Lysergic Acid Diethylamide) right down the bottom and mushrooms. Of course we are not talking about those things today. We are not talking about the fact that there are other drugs which do either more or less harm to society. We do not care about them. We do not really care if people are snorting cocaine in a back room of a toilet or if they are having a spliff with their friends on a card night because even though that is possibly doing lots of harm we cannot tax that at the moment. What we do is we allow these people not to be snorting pure cocaine. We allow them to be snorting Paracetamol and talcum powder and we do not care about their health. We do not care about the harmful products that go into those things because we have a very strange view of morality and of the penal system and of taxation, all of those things which we do not want to challenge. What we do every few years, at the moment we stand here and say: “Smoking is bad, alcohol is bad. Let us tax it”, but there is no joined-up policy when it comes to do doing that. Let us look at some other considerations. Just to emphasise that point; imagine if this Assembly had been full of people who hated car ownership. We would then have passed an amendment or it may have been part of the original proposition which hiked-up the cost of fuel duty so that those minority of dirty car users who do not use the bus, who refuse to use their bicycles but insist on using their cars, even though we know that it is bad for the environment and bad for us perhaps as individuals because we are not doing any exercise and we are growing fat in our vehicles when we sit on the Avenue in the morning listening to the dulcet tones from Radio Jersey or whatever we listen to, we are penalising that minority interest group. I do not really understand what the rationale is for duty taxation. It does not seem to be a fair way of taxing people but then again Jersey perhaps has never specialised in fair taxation. Let us listen to an academic called H.V. McLachlan, I think from Glasgow University, who talks about some of the issues around smoking and taxation duty on that. He says: “There is a possibility, perhaps even a likelihood, that in Britain smokers as a group subsidise non-smokers as a group.” That probably sounds slightly counterintuitive to some people who have been indoctrinated over many years: “It is indicated in a recent research note that the costs to the N.H.S. (National Health Service) of deaths through smoking of smokers is estimated to be only £1.7 billion while the expected tax revenue from tobacco next year is £7.8 billion.” Quick mathematics shows almost a ratio of 6:1 more or less, or 5:1.

[10:15]

“Furthermore, those who die from smoking would not, were they to have been non-smokers, have been immortal. They would have died from other causes and suffered from other costly illnesses. Why consider only health care costs? There are various other relevant items of public expenditure: in particular, since smokers, on average, do not live as long as non-smokers, [and that is what we have been told again today] they do not as a group generate the same pension costs as non-smokers as a group.” My message today is simply that it is dangerous when politicians start to moralise, especially on things which are legal. Also, this point that I started with, the only reason that we are asking for an additional increase today is because of a complete anomaly because a Back-Bencher managed to get his policy through and therefore we have to steal apples from another stall. Does not really make sense to me. I will not be supporting this amendment although I will reserve my right to choose whether or not we have any increase at all on tobacco.

1.1.17 Connétable S.W. Pallett of St. Brelade:

Everybody will be pleased that this is going to be extremely short and I certainly do not intend to give you a lecture on smoking. I am going to support this amendment not because it is anything about a balanced budget or I have got any sympathy for the Minister for Treasury and Resources. Really for me I am going to support it because it is harmful as the Minister for Health and Social Services already said. It is harmful, it is harming my children. Both my children smoke. I hate it with a vengeance and if any price rise is going to prevent them from smoking then I am going to support it. They live on duty free cigarettes, they travel a lot. They just bring them in time and time and time again and that is one sort of loophole that I think if we are going to stop people smoking we need to do something about. I would like to know the quantity of cigarettes that are brought in duty free to find out what the problem is with it. Another issue with that as well, younger people will get around it with duty free and the amount of time they travel and they will use it as a way of getting cigarettes but the older generation, I am afraid, do not have that option. It is going to hit them harder than it is going to hit younger people and it is younger people that we want to get to stop smoking. I think that is really all I want to say. Again, I think if we can look at the amount of duty free cigarettes that are brought in, and I certainly agree with the Minister for Home Affairs as well, we do have to be careful of the increased risk of smuggling because it is no doubt going to be an issue if we raise it to a level where it seems to be a preferable option.

The Bailiff:

Does any Member wish to speak? Then I call upon the Minister to reply.

1.1.18 Senator P.F.C. Ozouf:

I will deal with the last 2 speakers first. I am grateful for the Connétable of St. Brelade's non sympathy because I am not looking for sympathy really. I am not a moral crusader. I have just got a job to do in serving this Assembly in putting an expenditure proposal and an income raising proposal and we have got various different levers. The Connétable of St. Brelade did make quite an important point and I received 3 calls last night. One was a text message to be honest and the others were 2 calls. One was a message, the one that I picked it up. They said: "I am sorry, [first name], Philip. I am sorry you lost your amendment on fuel duty but I really do not mind you putting it in on tobacco", because one of them was a parent and he said: "If you can do anything to stop my kids smoking then do it." Secondly, they said: "It is a filthy habit of which I hope I did not start in the first place." I do not want to do a moral argument and all the prohibition argument I am afraid. I thought it was a good idea to have P.C.s (personal computers) in the Assembly but I am getting a bit worried about Deputy Tadier's research when he talks about all those things. Research is good but I am afraid I am not going to stand here and say that we have got a few levers to make in terms of opportunities to raising revenue. A number of Members have made some important points and I just need to respond to them. I am going to just ask Members - I know they have got lots of information in front of them - can they just get the Corporate Services' report because I want to just draw their attention to one thing, page 12 and also page 33 of the Budget Book. I just want to make 2 quick points about that. Deputy Southern and I, I do not think, are going to agree on many issues. We agree on some things on politics. I need to say to him that £20 million of a float in a current account on the consolidated fund is not there for spending. It is there as a buffer. It is there for a buffer to deal with uncertain times and income tax forecasts that sometimes do range. We do our best in order to serve the Assembly. I am given independent advice on it and that money is not there to spend. The money that is there to spend is the decisions we make on spending versus the income we raised. I would also say to Deputy Baudains, I did not want the sympathy but I suppose I am grateful for it. Yesterday he mentioned that there were underspends I think he said of £60-£70 million, £70 million. I would love to have underspends of £60 million or £70 million. £7 million or £8 million is what we get and that is some of the issues that we normally

allow people to carry forward, prepayments of school fees and other things. It is a relatively small amount so I am afraid there is no hiding place. The Minister for Treasury and Resources is not a magician. I would like to think I was but I am simply not. The Connétable of St. Clement said: "Is 38p?" Yes, I did say that there is a certain amount of money that you do need to put on duty before you create a tipping point, which is based upon the advice that I get from Customs and they said that effectively of a high tens of p's, 50p is about the limit. The Council of Ministers did discuss a 50p increase originally but we put a balanced proposal together of a bit of fuel duty, a bit of alcohol duty, which again I think my Assistant Minister has been doing a survey. I do not think we have explained to Members what we mean when we say a 10 per cent increase. He did question some people. He believes that people do not understand that when we talk about the 10 per cent increase in duty, or in this case the 13.2 per cent increase, we are not dealing with a 13.2 per cent increase in the retail price. I do not think we have explained that and I am sorry. Sometimes perhaps we, because we live with the figures all the time, do not realise that we need to explain it. It is a 13.2 per cent increase and to the Connétable of St. John it is a 13.2 per cent of the duty of all the duties on tobacco, whether that be pipe tobacco. It was Deputy Baudains that asked that particular question. He did raise the issue of C.S.R. and again I am afraid there is no hiding place, I say to Deputy Baudains. We are making savings. We have taken £60 million out of base budgets and he talks about overspending but the overspending is going in education mainly, it is going in job creation and it is going in stimulating the economy to get economic growth, so I would invite Deputy Baudains to come into the Treasury and for us to explain what we are doing. Yes we are going to have to go further in terms of efficiencies but this year we are putting forward a Budget which is designed, broadly speaking, to match income with expenditure subject to the investments that we have made in terms of pulling out J.T. (Jersey Telecom) shares, so I need to say to the Assembly to be please consistent and, yes, there is only a number of levers that we have got. Senator Ferguson: if Members could turn to her very helpful report, in relation to page 12 of her report, where she does show that there is an increase where there has been a decrease in the amount of tobacco, and there has been a decrease in the amount of tobacco and if Members will look at that graph she can see and Members should look at that red line. Those Members who want to deal with tobacco consumption, that red line shows that it works, the policy works. I am not suggesting that I am primarily dealing with this from a consumption point of view. The unintended consequence of the Treasury putting forward increases is that consumption falls. Yes, the income, I would need to say to Members, I am not suggesting and I am not putting forward saying that there is going to be a 13.2 per cent on the same level of consumption. If we do put a higher increase in tobacco duty, there will be a fall-off in consumption and that is built-in to the figures and that is why the figure is, if Members get their calculators out, they will work out that 13.2 per cent based upon last year's figure is a greater amount but we have already downgraded the amount of importation that is coming in. I think Senator Ferguson's graph is helpful for those Members that want higher duty on tobacco to deal with consumption. I do not think they are grumpy and unhappy. I do not think they are at all. I think the Constable of St. John needs to be nicer to some of his Constable colleagues but I will be nice to him, if he also wants to know about the determination of dealing with other issues of tobacco for those people that are concerned about it, and I would be too: yes, of course, Australia leads the way. They have brought into force just last week clean packets that you are not allowed... actually they are brown packets - they do not look very nice. There is no branding and I know that there is a tobacco strategy that is coming forward. The issue of importation, of duty free: so I asked whether or not we could ban duty free on tobacco because I thought that there was an inconsistent message, but I am told that we cannot do that unilaterally, that we have obligations in relation to other arrangements with other countries, but clearly that is going to be an issue that is going to be an ongoing issue. I would just say that an individual can only bring in a pack of 200, so they are limited and our Customs and our frontier controls do a very good job in relation to ensuring that there is an awareness in relation to the

maximum amount of duty free brought in and they are effective. I say to the Constable of St. Clement, no, upon advice - and the officer's room has the Deputy Customs Chief and he advises, and I take advice from him through the Minister for Home Affairs - and they are saying that 50p is not going to start getting a huge amount of contraband tobacco coming in. Page 33 of the Budget and Senator Farnham... and I am really going to implore Senator Farnham to support this revised amendment. We have set the expenditure and if I have only a few levers at my disposal, I will use a lever where I think there is a lever that can be pulled. I would like Members just to look at page 33 of the comparison of the retail price of a packet of cigarettes and I am going to upset the tobacco lobby again by I am going to remind Members of the net price of a packet of cigarettes. The net price of a packet of cigarettes currently in Jersey is £2.34. In the U.K. it is £1.58. Now I know that costs in Jersey are said to be much more expensive but I do not know any other commodity, any other product which has a net price which is one and a half times that of the U.K., so if there is anything, if there is a lever I can use, then this is one of the ones that I can use and I ask Members to... reverting back to the conversations yesterday we had on fuel duty, I want to see that margin reduced and to use the Jersey Competition Regulatory Authority to make sure that there is nothing inappropriate going on because there is clearly an issue there. It does not cost an extra 1.5 times, it does not cost an extra 70p to bring a packet of 20 cigarettes from the United Kingdom to Jersey. Now I am limited in terms of the options that I have got. This is one of them and lifting it up to 50p and I say to Deputy Martin, I will go higher if I can on that duty rate because I think you can ... you cannot do it in big jumps, you need to do it over a period of time. We need to give Customs the confidence and awareness about duty free and yes I would like to look at the issue of duty free because I think there is an inconsistency but I cannot do that in isolation to others and, yes, there will be further increases in tobacco duty going forward but you can only do it in a certain step change. Finally I think I have answered all the questions that Members had. This is a relatively simple argument that the Treasury is making. I am grateful for the sympathy of Members but I just ask Members to make some common sense decisions if I may. We put spending limits in the M.T.F.P. and the Treasury has to raise money. I have to try and balance a budget. We have lost fuel duty. Members have an opportunity of regaining some of that revenue from tobacco. Some Members will say that it achieves some of their other objectives. I believe that it does. I believe that it is a fair and reasonable alternative proposal to at least get us near to the revenue that we lost from fuel duty and in order to make sure that that Consolidated Fund keeps around that minimum amount of money that I have said that is necessary and prudent. The autumn statement, later on in the U.K. will show a Government that has not been prudent. This Assembly has been prudent in relation to its spending of the past. I do not want to saddle future Assemblies with income and expenditure which is mismatched, and this is really a debate just simply about that. Deputy Le Hérisier, I think I did not answer his question. He wants a big debate about tax. This is not a big debate about tax, this is a simple issue just raising the revenue for the expenditure which we have agreed and this is primarily on health, and so I make a proposition and ask for Members' support.

Deputy G.P. Southern:

I do not believe the Minister has addressed my fundamental question about what constitutes a balanced budget. £19.5 million in the float or £20.5 million, is either balanced?

[10:30]

Senator P.F.C. Ozouf:

We have had all these debates and the Budget Book is full of all the information of the underlying deficits and balanced budget approach that we are taking and Deputy Southern is one of those individuals. I cast no aspersion on his views but he believes that if the money is there you should spend it. He wants us to be spending the money.

Deputy G.P. Southern:

This has got nothing to do with spending the money.

Senator P.F.C. Ozouf:

So I have not got anything else to say. This is a simple issue, we have agreed the **[Interruption]** ... this Budget is about raising the revenue and I am asking Members to put more revenue into tobacco in order to pay for the spending. It is as simple as that and I believe that this is a product that we can do it. I believe there are 2 other questions.

Senator S.C. Ferguson:

Can I have a point of order? I am sure the Minister was not deliberately misleading the Assembly. My information is that the price comparisons with the cigarette prices in Jersey and in the U.K. are not supplied by the Statistics Unit and they are taken from a U.K. website, which can sell below the recommended retail price, therefore I think we should be a little careful in relying on those figures.

Senator P.F.C. Ozouf:

That is not correct. First of all I am not aware that there is a recommended retail price for tobacco products, if there was that would be anti the U.K. Competition Law. There is a competition effectively on price on tobacco products and my point is simply this, Senator Ferguson can see that there is an underlying huge difference between the price of a packet of cigarettes when stripping out duty and tax and whether or not it is 10p either way, it is massive. It is 150 per cent so a point of clarification, the date is clear, I can know that a packet of cigarettes in the U.K. is around about £7.30 and I look at the price displays and I know it is about £6.44. The maths is simple.

The Bailiff:

Very well, now we are moving on to the vote.

Deputy M.R. Higgins of St. Helier:

Can I have a point of clarification?

The Bailiff:

You did not speak, Deputy, I do not think so you cannot ask for a point of clarification. **[Laughter]**

Deputy M. Tadier:

I would like just to ask a point of information with regards to the comments that the Minister made about duty free not being possible to ban that, would he circulate a paper on that in the next week so that I think it is an area of interest to Members.

Senator P.F.C. Ozouf:

It is not my responsibility, I cannot do it within a week but we will do our best. I move the amendment and ask for the appel.

The Bailiff:

Very well. The appel is called for then in relation to the fifth amendment lodged by the Minister for Treasury and Resources. I ask Members to return to their seats and the Greffier will open the voting.

POUR: 38		CONTRE: 8		ABSTAIN: 0
Senator P.F. Routier		Senator S.C. Ferguson		
Senator P.F.C. Ozouf		Senator L.J. Farnham		

Senator A. Breckon		Connétable of St. Clement		
Senator A.J.H. Maclean		Deputy G.P. Southern (H)		
Senator B.I. Le Marquand		Deputy M. Tadier (B)		
Senator F. du H. Le Gresley		Deputy T.A. Vallois (S)		
Senator I.J. Gorst		Deputy M.R. Higgins (H)		
Senator P.M. Bailhache		Deputy G.C.L. Baudains (C)		
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

1.2 Draft Budget Statement 2013 (P.102/2012): second amendment (P.102/2012 Amd.(2))

The Bailiff:

Very well. So we now come to the second amendment lodged by Deputy Southern. I will ask the Greffier to read the amendment.

The Deputy Greffier of the States:

Page 2, paragraph (a) - “After the words “as set out in the Budget Statement”, insert the words - “except that, in relation to existing taxation measures, the prescribed limit for the purposes of Article 135A(3B) of the Income Tax (Jersey) Law 1961 (which concerns persons granted 1(1)(k) housing consent) shall be increased for the year of assessment 2013 from £625,000 to £643,750.”

1.2.1 Deputy G.P. Southern:

I believe this is a fundamentally very simple amendment and it is one on which the Minister for Treasury and Resources and I completely agree. I use the word “completely” somewhat loosely

because as usual the Minister for Treasury and Resources agrees with me in principle but not in practice, especially ...

The Bailiff:

You mean not completely?

Deputy G.P. Southern:

I mean, barely agrees with me, Sir, but not in practice, especially when I bring an amendment to his precious Budget as I am prone to do. The point is that the time has come, I think, to properly share the load with those with the broadest shoulders. In particular when we face a year, 2013, when we are going to be implementing some £3 million worth of cuts to welfare, to benefits. So we need, I believe, to spread the load fairly and that to my mind includes the very wealthiest on the Island, the high net worth individuals that we invite to share the privilege of living in Jersey for a certain sum and last year, 18 months ago, that was set at a fixed sum, essentially high net worth individuals who come to the Island pay 20 per cent on the first £625,000 of income wherever it is earned and a further 1 per cent on any remainder. Their contribution to Jersey tax revenue stream is at least £125,000. Of the 140 high net worth individuals currently here, we do receive £13.5 million from that particular source so it is a significant income stream. Unfortunately it is fixed, so over time its value reduces due to inflation. It comes less and less valuable as time goes on unless it is indexed. For example, the example I use in my report, is that £1,000 back in the year 2000 only purchases £625 worth of goods today due to erosion, due to the cost of living. My amendment means that the sum on which high net worth individuals, 1(1)(k)s, pay tax, will be index-linked and the sums if we index-link immediately on R.P.I. (Retail Price Index) at 3 per cent are in my report, and we are talking about a relatively small sum. Tax then gets paid on a 20 per cent on £643,750. That is the first year. However if we index-link over time, that could be a very significant sum. The example I use again in my report is that if we were to index the whole of the income stream from high net worth individuals at £13.5 million, if we were to index that today - we cannot because that is retrospective, but if we were to do that - then we would achieve another £139,000 worth of tax revenue. If that were to continue over, let us say, 8 years that is over £1 million worth of revenue. Now, what I am suggesting is that unless we index-link that sum going forward, we will be losing those sorts of sum eventually. Now, as I say in my paper, in the past I understand this has been a problem. Ten years on, 15 years on, 20 years on after a 1(1)(k) arrives in the Island, they are paying relatively little amounts due to the erosion of inflation for the privilege of living in Jersey. Now I want that to stop. The Minister himself in his comment - and this is where he agrees with me - he says "The way in which Jersey set the minimum tax contribution it expected from 1(1)(k) residents in the past has meant that in some cases the value of that contribution has been eroded over time." Agreement: there is a problem. Agreement also: "The Minister understands the desire to ensure that the value of the tax contributed by 1(1)(k)s is not eroded over time." So he agrees, let us stop this erosion over 1(1)(k)s' contribution. With that in mind, he is proposing to review the regime once it has been in place for long enough for meaningful conclusions to be formed. With that in mind he is proposing to review, not act, to review the scheme once it had been in place for long enough for meaningful conclusions to be formed. Long enough. When is that: 2 years down the line, 5 years down the line, 10 years down the line? We will fix it, or we might. No, he has made no commitment to fix it. It is a commitment to review it. So while he is agreeing with me, he says that he will review it sometime down the line when he feels ready. I am saying, no. There is a simpler solution, we could and we should start now with indexing that amount. He then goes on to say: "Introducing an automatic annual increase in the minimum tax expected from 1(1)(k)s could very quickly make the Island's tax offering uncompetitive." So he agrees with one hand and in another sentence he is saying: "Oh, but that might make us uncompetitive." Well, let us have a look. This year to date there were 7 applicants under the new regime, 6 of whom now are resident

here, have bought and have now settled. So the numbers with the scheme are steady. People still want to come under the regime of £125,000 minimum tax contribution. I believe that indexing that tax contribution would make no difference at all to the attractions that Jersey has for these high net worth individuals. The Minister for Treasury and Resources also says on page 4 of his comments: “While £1 spent in 1990 [referring to my figures] would now buy one-third less, it is not clear that incomes in the same period can be expected to have increased by 131 per cent.” In order to make a comparison all he has to do is look at the Average Earnings Index and he will find that the increase has not been 131 per cent for ordinary people, thereby paying more and more tax on that increase. The increase is not by 131 per cent, it is by 171 per cent, so average earnings goes up even quicker, as we have been told time and time again recently when looking at the balance of earnings in the Island. So, the principle is not objected to, just the timing and yet we have got no date for that review that the Minister wants, nor while the principle is accepted by the Minister as correct, is there a mechanism to be put in place in order to make sure that this erosion of the income stream does not take place in future. I suggest it is time that we did, that we do put that indexing, that mechanism in place, to ensure that the contribution that we get from 1(1)(k)s for the privilege of living on this Island does not erode over time. So I maintain the proposition.

The Bailiff:

Is the amendment seconded? **[Seconded]** Does any Member wish to speak? Senator Ozouf?

1.2.2 Senator P.F.C. Ozouf:

I am not sure that Deputy Southern was trying to mislead the Assembly but he said that we are in agreement. I am not sure that we are in agreement because I am not sure that Deputy Southern agrees with the 1(1)(k) regime at all. I cannot remember, it may well be that there is an underlying issue. I put forward a change to the 1(1)(k) regime 18 months ago, or in July 2011, that is not a full tax year since we have done it. I would remind Members that at that stage the Assembly agreed to do that and we agreed to put a fairly significant increase in the minimum contribution. I rehearsed the arguments at that time about the need for competitiveness. We are in fact more expensive than other jurisdictions. We believe that that is one of the factors people come to Jersey and they will move location because one aspect is tax. There are minimum tax contributions in competing jurisdictions. Guernsey has, as my report says, a maximum tax cap. We have a minimum tax cap, Guernsey has a maximum tax cap of £100,000.

[10:45]

The Isle of Man has £115,000, in fact Switzerland can be as low as £35,000 and other places such as Monaco effectively there is no tax contribution at all - they get it all by indirect taxes. We proposed when we brought in the new 1(1)(k) regime a higher rate. Effectively it was quite a significant increase in terms of the minimum tax contribution. Where I do agree with Deputy Southern, and I am willing to say again publicly, that I want over time that minimum contribution to be maintained in real terms. My only difference is, is that I want to see a full year of tax from the new arrangements being put in place. Ours is not a maximum tax rate, it is a minimum tax rate, and I want to see the extent to which our new policy which was designed to make sure that 1(1)(k)s had the advantage of bringing their business to Jersey rather than parking it in another jurisdiction before they came here. The idea of the new regime was that they brought all of their business to Jersey. So we did not only get that minimum tax contribution on the first £625,000, we got the 1 per cent above that, but we got all that other benefit of inward investment and we have been doing good work, there has been good work done by the Minister for Economic Development's team. He has now got a new employee in relation to marketing and awareness of the new regime. The Minister for Housing gives very careful consideration of each of the 1(1)(k) applications. There has been some good news. Perhaps it is not been quite as successful as we wanted, which I

think is quite an important message to go out in this debate. Deputy Southern wants us to increase again that minimum contribution in a way that has unintended consequences and I simply am not prepared to support that at this time. I am willing to work with the Minister for Housing and to review again the overall 1(1)(k) policy in the next few months. I still want to deal with this situation whereby I am told that 1(1)(k)s that came here in 1970 are paying £5,000 and there has been lots of political point-scoring about that. The reality is that those individuals do not simply have the income anymore in order to do that and I am wanting to suggest that there is potentially a transitional arrangement where they would go to the normal 20 per cent rate because it is not the case that some of those individuals have got hundreds of thousands of pounds worth of income, their savings have either gone with the dotcom (.com) crash or other arrangements. So I am looking at the historic issues of 1(1)(k)s. I cannot rip up the rule book. There are obligations that have been given and there is also an important message of certainty and stability that we send out to Jersey in relation to our 1(1)(k) regime. We changed this only last tax year. I do agree that I want in time to bring forward a proposal to maintain that minimum tax contribution and I will do it before the next Budget and I will certainly be doing more work with colleagues on that. But this is too early. It is going to be damaging in terms of the message it sends out that we make a change to the arrangement before we know the full impact of our new arrangements. I agree with Deputy Southern. I want to raise as much revenue as I possibly can, however, I am not going to do anything which undermines the competitive nature of the 1(1)(k) regime and could end up with us not achieving our targets overall because this is a subtle arrangement. This increases effectively the amount of tax that pays at 20 per cent and we are going to make it even more difficult. There may be another way that we can guarantee that we can ensure that we can get that minimum tax contribution by condition on the housing licence or other ways. There are other ways in order to do it. I would just remind Members that when we did originally... and there have been a number of variants of the 1(1)(k) regime. In the 1990s this Assembly thought that it was possible to set the minimum rate at £200,000 and I think we had one 1(1)(k) arrive. That was no good for the economy, no good for inward investment and if we were to index the 20 per cent income arrangement over a period of time then effectively we would making individuals have even more substantial amount of income to prove to us before the Minister for Housing would be willing to grant a consent. And we are not going to get the 1(1)(k)s in. At this period of the economic situation we want to encourage as much inward investment into the Island as possible. It is a factor that the minimum contribution is important, but it is also that so are all of the other benefits that inward investment bring. Inward investment, investment into the Island economy, investment into jobs which is the kind of discussions that we are having. We are looking at 1(1)(k)s not simply on the issue of their minimum tax contribution. We want 1(1)(k)s to be investing in Jersey, investing in new kinds of businesses, investing in businesses for the intellectual property area, for I.T. (information technology) businesses, et cetera. That is what the U.K. do. They encourage entrepreneurship and this is about a policy of encouraging people who are going to bring investment and entrepreneurship, and I am afraid simply increasing as Deputy Southern is proposing is not going to achieve those objectives. I am committed to maintain in real value the minimum tax contribution over time but you do not do it after not even having one full year of data and certainly not a full year when you have got the research that you have carried out with competitive jurisdictions. I urge Members to reject this amendment.

1.2.3 Deputy G.C.L. Baudains:

In this Assembly we often make decisions but in my view we are not always acutely enough aware of the ramifications of those decisions. I have always taken the overall view that taxing everything possible in order to spend what we do is not the way to go about things. I have mentioned this earlier this morning, I have mentioned it again yesterday. I fully understand the need for fiscal stimulus but my argument always has been for decades now that we spend too much because

putting even more overheads and regulation on the public does bring about the issue of diminishing returns. It discourages enterprise, stifles profit, which in turn reduces our tax income. Now I fully understand Deputy Southern's argument that income from this area is decreasing in real terms but I am concerned, and in this area I tend to agree with the Minister for Treasury and Resources. In this area, taking away just that little bit more could very well result in less tax being taken overall. As I say, I understand the principle of the amendment, but I believe the outcome would have the opposite effect to what is intended, and I may not be supporting the amendment; I will listen to further debate before I finally make up my mind.

1.2.4 Deputy J.G. Reed of St. Ouen:

First of all, I am extremely disappointed with the Council of Minister's comments that are issued to us because they suggest that what I would believe to be a very minor alteration to the contributions required to be provided by 1(1)(k) residents is considered a risk with regards to sending a message that Jersey's tax regime is unstable. I would go further to suggest that I am certain that, with the other tax issues that are faced within the Island, a wealthy resident is not going to be focusing on this small, insignificant increase in their tax contributions at this moment in time, rather, he will be looking at the interest being shown by other countries in this Island with regards the tax situation generally. Furthermore, I do think that we live in an Island where everyone - and I mean everyone - is required and expected to contribute to the increasing costs of public services, so why protect some of our most wealthy individuals? We are equally, I hasten to add, reducing at the same time benefits to perhaps the most vulnerable people in our society. Again, what message does that send to the community that we are trying to deal fairly with? I do not believe that this, as I say, insignificant change will have any impact whatsoever in attracting people to this Island. If we are worried that we are only going to attract people to the Island regarding a monetary benefit, then I think we have lost the plot. I believe that we have got a lot to offer on this Island: we have got a quality of life that we should be extremely proud of, and it is not just money. We want people to come here because they want to be part of our community, not just to ensure that they have the extra pound in their pocket. So I am sorry, I will be, on this occasion, supporting Deputy Southern's amendment.

1.2.5 The Connétable of St. Brelade:

I do support Deputy Southern's principle but, although it may be minor, I think it will send the wrong message out. I do not want the Island to be seen to be uncompetitive at this present time. These are difficult times and we do want to see that we are open for business and make sure that people feel that they are welcome here. I do want to see us building new strands to the economy; the digital economy has been mentioned and, in that regard, I think we do need to be attracting entrepreneurs and high net worth individuals into the Island to support those types of industries. I think when the economy is in better shape, and I am sure it will be - we are not sure how long, but it will be at some stage - then this proposal might be appropriate, but I do not think it is appropriate right now. High net worth individuals are fickle; you have only got to look at Jenson Button, who just did not like the weather and decided he was going to move out of Guernsey, so anything that is going to put them off will put them off. There is a suggestion that has been made there that it is all about money. I do not know many high net worth individuals, but the ones that I do know give an awful lot to their communities. I could pick one for example that I have had some contact with - and before anybody starts sneering at me, I am going to mention him - it is Nigel Mansell, who has put a lot of money into the Island but has also put a lot into the community that he lives in as well [Approbation] so I do not want to see them kicked every time. I do not really want to say too much more. I would like to support this principle and I may some time in the future at the right time, but this just is not the time, so I am sorry, I cannot support this proposition at this time.

1.2.6 Deputy A.K.F. Green of St. Helier:

The Minister for Treasury and Resources put much more eloquently many of the things that I would perhaps like to say, but I would just like to cover one point particularly: that I very often have to ... well, nearly every application I see, unless officers have rejected them, if there is some thought that these people may be accepted, it is me that sees their application and has discussion, both with the Minister for Economic Development and officers about the appropriateness of that application. Believe me, at the beginning of the exercise, it is a paper exercise for those people, they do not know too much about the culture of Jersey, they do not know what a lovely community it is. When they are looking to relocate, they are very often looking at 2 or 3 locations, and it is the figures on the paper that initially get them to come and visit the Island and, once they get here of course they do feel, even though they have not yet decided perhaps where they are going, very welcome, they do feel this is a place they want to live. But, to make that initial trip here, it is all about how we compare with our competitors. So it is important that we get that right. I would just like to add that when they do come, and they are very different people to the ones that we used to have - I am not knocking the ones we used to have - who used to come here with their capital sum, do good things in the community but generally retire. The ones we are getting now, and these are people that we actively seek to get, come here, they move their home office here, they provide employment and people, as the Constable of Brelade said, like Nigel Mansell, open up businesses, employ local people and are paying taxation; that is in addition to the minimum £125,000 they have to pay. It is the wrong time to be fiddling with this, it is the right time to be consistent, send out messages of welcome to high net worth, high value people, and get them here contributing, not £13 million, but hopefully £26 million to help the people that need the benefit. We can get the money back then where it is needed to people that need benefit. I have worked very hard with different charities and different organisations, I want to give them more money. I can only give them more money if we earn more money and it is very simple. It is very fickle, this trade we are in at the moment, and I urge people to reject this amendment.

[11:00]

1.2.7 Deputy M. Tadier:

We have had a couple of pictures painted of 1(1)(k)s which I do not think is immediately relevant to this debate, because we are talking about figures here. It is not really a debate about the philosophy of 1(1)(k)s, although I think that might come into it. We have had 2 pictures painted: we have had one picture painted which is that 1(1)(k)s over here are the most generous individuals that you could care to meet: they are philanthropists, they are altruistic and they do not come to Jersey because of the money, they come to Jersey because they can invest in community projects, provide work for people and build up businesses and economic growth in Jersey. Then we hear from the previous speaker that 1(1)(k)s are so mercenary that a very modest increase, which is in line with inflation ... not even in line with their inflation, because of course the 1(1)(k)s are probably some of the few lucky individuals in the world whose interest rates are higher than the cost of living increases that happen because they have got such vast wealth for them and they obviously invest it in different ways such that their income and their interest income is higher than any of us could ever hope for in terms of percentages. So, first of all, they can afford it. So let us look at the example of St. Brelade. We have a 1(1)(k) living in the Parish who, I think, it has to be acknowledged, has done a great deal of work for the Parish in terms of the youth club. That individual has already been mentioned, and he has taken a direct interest in our Parish. It is something that he does not have to do; he could, if he wanted to, be a hermit. He has got a nice place which is out of the way, he could spend his time there flying in and out of Jersey without contributing anything socially to the Island, but he does not do that. Would this individual leave, really, if we asked him for an extra £18,750 a year which, of course, only in line with inflation?

Deputy G.P. Southern:

Can I correct the Deputy? It is not even that much; that is the amount of taxable income. The increase in tax would be £3,562.50.

Deputy M. Tadier:

Oh, well, there we are then. If that is only what it is, it is about a sixth of what I was saying, of course, they would not leave. If they are coming to Jersey they are looking: "I want to come to Jersey because of its geographical location. It has got great schools, it has got great beaches, it is close to France, it is only a half hour flight from the city of London. I want to come there, oh, but they are going to charge an extra £3,000 as to what they would have last year. I cannot really do that, I do not have that loose change on me." Do people know how much money wealthy individuals spend simply in avoiding paying tax in their home countries? They will fly to Jersey and the fees that these companies get may amount to hundreds of thousands, millions of pounds, and that is the fee to stop them paying the taxes that they would be paying in other countries and, for the sake of £3,000, that is not going to change anything. We have to be realistic. We talk about sending a message out, and I think the Deputy of St. Ouen hit the nail on the head, although I would not necessarily have expected to hear that speech 3 years ago, I think he is perhaps speaking from the heart today, as I am sure he always would do. He said something about: "Can we really make a carve-out for these individuals when we are dropping allowances, social security?" I am looking at the Minister for Social Security at the moment because I remember when he stood for election he said: "I favour progressive taxation." He went round the 12 Parishes and said: "I think it is right that wealthy individuals who are resident in Jersey should have a higher rate of taxation." I think it was 27 per cent or 30 per cent at the time. He knows that he has to make very difficult decisions because he is in a Coalition Government and he has been asked to make cuts in his department which affect the most vulnerable in our society, and those are very difficult decisions. What kind of message does it send out when other individuals are seeing their allowances diminished and the amount of tax they see, direct and indirect, increasing, when the most wealthy individuals in our society, who would be entirely happy - in fact they would not even blink, I suggest, at this increase - would still come to the Island. The message it sends out is what I have feared for many years: that we are willing to act in a pernicious way against our own residents, who have been feeling the cost of living for many years increasingly, whereas Jersey is not set up for our own individuals, it is simply an aircraft carrier for those wealthy individuals who, in this instance, would live in the Island. But to attract them to Jersey ... because there is one rule for one and one rule for another. This amendment must be supported, otherwise again we are sending the wrong message out to our individuals, and we must not believe what I would call the misleading argument about scaring off these wealthy individuals. They come to Jersey because there were so many reasons. This very modest increase, which is consistent and in line with inflation, should be the *de minimis* contribution that they would make.

1.2.8 Deputy J.H. Young:

I just want to briefly say that I am really struggling to understand the opposition to the amendment. We know that under our 20 Means 20 tax policy we have had for some years, that is now fully implemented, the highest earners of our society, that is some 7,000 people I think approximately, pay a major proportion of our tax revenue. I am trying to find the numbers and I cannot find them, but they are very substantial. Of course, those are, I think, real movers and shakers in our society where a lot of key decisions are taken, people who accept the changed regime and accept their new increased liabilities under 20 Means 20. So they pay tax at the rate of 20 per cent on all their income above the marginal tax thresholds. I apologise I cannot give you what those numbers are, it is complicated, but I think they are at a relatively low level, relatively modest incomes, certainly well less than 100,000; probably somewhere, I think, round the 60,000 or 70,000, people are paying full rate of tax above that at 20 per cent. So the 1(1)(k)s have a preferential arrangement, rightly for

all the reasons that have been explained about why we want to encourage them, and of course we do, but their advantage, of course, is not only all the wonderful things about the Island and the special place that we are, but the fact that we have a threshold limit whereby they only pay tax at 20 per cent up to this ceiling figure, and the ceiling figure which we are debating now, and above that they then pay 1 per cent. Of course, what the proposal says is that that threshold should move from £625,000 per annum to £643,000 per annum, which is an adjustment equivalent to the R.P.I. period for the duration. So I think it is such a modest change, I am really struggling to see how all the draconian effects that have been spoken of that would happen because of this ... instability, really? I am struggling. I was in the tea room, but I heard the Minister for Treasury and Resource's response, but I really cannot understand it. To me, this is about equity: equity in society, a very large proportion of people paying 20 per cent, this group have got an advantage, and we respect that and honour it, but it is it not right that that threshold should change and be adjusted at the time we do our budgets, in line with inflation? So I support this.

1.2.9 The Connétable of St. John:

Yet again, I hear the haves and have-nots who want what everyone else has got. Time and time, over the last 18 years in this House, I have heard Members from across the Chamber expounding the virtues, or otherwise, of 1(1)(k)s. Somebody needs to speak up for the people who do not speak up for 1(1)(k)s, and I am going to speak up on their behalf. They do contribute to this Island, and they have done for many years. We want to be very careful what we wish for because things are moving, people do move. You saw a well-known racing driver move out of our sister Island; I do not know the reasons, but these things happen. Be careful what we wish for. We can push people over the edge. The Minister has already acknowledged that he is looking at this for 2013 onwards, and, really, what is going over the airwaves, yes, it might please some people, but common sense: we raise this once, twice, 3 times a year, and kick the same group of people, who give employment to this Island in various ways and, in turn, these people pay taxes. To be driving this wedge down among a certain group of people within the Island, I think we should be ashamed of ourselves. It is like a religious wedge. We have got to be careful the way we speak in this Chamber about certain groups of people, and I am no different; sometimes I might make a comment about something but then I withdraw it, but some of the things I have heard this morning, I think we have to be careful. Please, can we get on with the debate without isolating this particular group any further. I say, let us get on with the vote.

1.2.10 Deputy J.M. Maçon of St. Saviour:

First of all, I have to congratulate Deputy Young on his speech, because he much more eloquently put across what I wanted to say. Deputy Southern is asking for an increase on paper, yes, but in real terms he is asking for *status quo*, and this is why for me it is a bit of a no-brainer, because all he is asking for ... and the Minister for Housing said: "We should go for consistency" but this is what Deputy Southern is trying to achieve. The amount of tax take that will come in, Deputy Southern is trying to achieve, in real terms, *status quo*. In my mind, that is a no-brainer; I do not have a problem with that. We touched slightly on the issues about social security, things like that. I think I, like many in this Assembly, agree that social security, and the components of it, do need reform absolutely, and I think all these things do go hand-in-hand and if we are saying one thing, we have to say another. All that Deputy Southern here was asking for is for consistency for the *status quo* in real terms. I for one do not have a problem with that, and I think it is something we should agree to.

1.2.11 Connétable D.W. Mezbourian of St. Lawrence:

I take the opposite view to Deputy Maçon. I think that the changes were made clearly in July 2011, and I agree with the Minister for Treasury and Resources that we should wait a decent time to

review how those changes have worked. I would just like to draw Members' attention, to just try and lighten the mood a little bit, to the fact that we have all received a copy of the marvellous St. Ouen magazine, *Les Gris Ventres* and, in there, there is an item about what they said about us, and it refers to people who have spent some time in the Island. In 1959, John, the 13th Duke of Bedford, moved to the Island for tax reasons because, clearly, he was going to benefit by living in the Island. He wrote in his autobiography: "I cannot say I ever found the company on the Island particularly attractive and even taxation relief could not make up for the boredom." [Laughter] I hope that those 1(1)(k)s whom we encourage to move to our Island and contribute to our economy do not find it boring living over here in 2012.

1.2.12 The Connétable of St. Peter:

Just very briefly, to draw to Members' attention that there are 3 types of 1(1)(k). During my previous time in the property world - and I am sure Senator Maclean would probably have a similar view - there is the type of 1(1)(k) that wants to come to live in Jersey because it is, as described earlier on, a lovely place to be. There is a middle one who will come to Jersey if things are right, and because it is also a nice place to live. But there is the other one, the last one, the last group, that has the potential to offer so much to us they will come to Jersey purely because of the tax advantages they can get. While they are here, they employ tradesmen, they employ gardeners, they employ cleaners, they shop in the garages, they buy and refurbish homes, all of which stimulates our economy. That is what they add to us. As the Minister for Housing said, before they arrive, they look at the figures on the doors and they choose which door to go through based on the figures that best suit them. That is a great tranche of people that we could dissuade if the figures on the doors are not quite right.

1.2.13 Senator F. du H. Le Gresley:

I had said to my colleagues on the Council of Ministers that I would not speak in this debate, but I am afraid it is very difficult to sit still; I have sat still and not spoken at all yesterday and at all today, and that is part of the fact that if you are in the Council of Ministers you have to go with the flow.

[11:15]

It is very frustrating when you have been a Back-Bencher who has had very strong views, about which I say to Deputy Tadier: I have never lost them, fear not. I am totally - and most people know - against the 1(1)(k) regime, always have been, always will be. My colleagues on the Council of Ministers know that on this issue I will be voting with Deputy Southern. The reason is, quite simply ... an expression that is used in the U.K.: "We are all in this together" and, as some Members have quite rightly said, if I am going to be making £3 million cuts in 2014 in the tax-funded benefits, then everybody in this Island has to play their part and the 1(1)(k)s must pay more tax. I was totally against the 1 per cent that was agreed last year; I published my views at that time. I think allowing people to pay 1 per cent in this Island is absolutely ridiculous when everybody else is on 20 Means 20. However, that is what we agreed, I voted against that, I will be supporting Deputy Southern. We must all play our part in this economy. We are all in this together.

1.2.14 Senator A.J.H. Maclean:

I completely disagree with my Ministerial colleague. I respect many of the views he has and many of the things he does but on this particular issue I am afraid we are parted in a very significant way. The 1(1)(k) regime and those that have been attracted to this Island make a considerable contribution; indeed, Deputy Southern himself noted that, and he was absolutely right. But he mentioned the £13.5 million; it is far, far more than that in terms of the contributions that the 1(1)(k)s attracted to Jersey bring, and particularly those that have come in the last recent years, 5, 7 years. We are seeing far younger, far more economically active people who are bringing their head

offices here, they are bringing their businesses, they are employing local people, they are contributing to the economy but they are also, importantly, contributing to the social fabric of the Island, getting involved in charities in terms of donations, charitable causes, good causes, and so on. Many of these go unseen. Many of the Constables will be well aware of the contributions that the high net worth individuals that we attract here to Jersey make to our Island. But those points have largely been covered. I think what I would like to concentrate on is what we are talking about here: the essence of the proposition that Deputy Southern has brought, which seems very reasonable at face value. In fact, when you first look at it, you think: "Yes, why not. That is absolutely right. Maintain the current level as it stands at the moment, index-link it for inflation purposes." The problem that we have is that this is a very competitive area, it is a very competitive world at the moment in particular, and what we have are many other jurisdictions where, as Deputy Green said, many of those who come here as high net worth individuals, as 1(1)(k)s, have 2 or 3, at least, other jurisdictions that they are seriously considering at the time that we are trying to capture them. We do not get them all, some of them we lose. We are more expensive than most in terms of the regime that we have put in place but, nevertheless, there are other reasons that they seek to come here, and there are other advantages Jersey has which allows us to charge more than our competitors. So in terms of reviewing for the future - and I agree with the principle behind what Deputy Southern is talking about - what we need to ensure is stability and certainty; those are the reasons that people come here in the first place, that is why they want to bring their businesses here and so on. So any future review - and there should indeed be a review once time has passed and there has been an opportunity to see the effect of the regime that is in place at the moment - should be based on the market conditions and what our competitors are doing. I want to see us attracting more 1(1)(k)s, more wealthy immigrants, more high net worth individuals, and we want to see more inward investment. These are not large numbers. We get at the moment, Deputy Southern mentioned, 6 or 7 so far this year; it may well rise to 8 or 9 by the end of the year. But I would like to see more than that, not big numbers, but if we had 15, the contribution would be significant. If we had 20, the contribution would be even greater in every aspect of Island life. If we are going to attract the additional numbers that would be beneficial to our economy and beneficial to our community, then we have to be competitive. Any changes we make in the future to the regime have to be taking into consideration what our competitive jurisdictions are doing, those that are also seeking actively to try and get these wealth creators to go to their jurisdictions instead of coming here to Jersey. I welcome 1(1)(k)s, they make a huge contribution, as I have said, I would like to see more and I would strongly recommend that Members reject this well-meaning but misplaced proposition from Deputy Southern.

1.2.15 Deputy J.A. Martin:

I was not really going to speak in this debate, and I was not really concerned with this amount of money. I think Deputy Tadier said earlier, I have heard that we have got people looking at us on a piece of paper, obviously dotting things in the maps saying where they are coming. But the person who really made me speak is - because I do welcome 1(1)(k)s, I do not care how much people have got, I respect them - Senator Le Gresley who hit the nail on the head: it is not equitable. Yesterday, we are told by the Minister for Education, Sport and Culture we have been chasing partners who have nothing to do with children because it is equitable. That really has got me up to speak, from the Constable of St. John to tell me: "There are half of us who are so envious that we want to tax these people out of this Island" it is absolute rubbish. **[Approbation]** As I say, he is speaking for the people that cannot speak for themselves. Are we not going to have a debate later on pensions and things like that; we are not giving anything away to the ordinary people, and they are the majority, as Deputy Young said. It is that middle £60,000. When they brought in the 20 Means 20 it was going to start at £90,000. I always remember Senator Le Sueur telling us: "It has come down to £60,000." If you have got a mortgage, a couple of children, it does not go anywhere. I love

them all, I do not know any of them, probably, I might speak to them, I do not know, I do not ask; it is not the first thing I ask someone when I meet them: “How much have you got in the bank?” or: “Are you a 1(1)(k)” not interested. If I get on with a person, I like them. But if you really want to attract them, build your million-pound houses at Plémont; I am sure you will get more of them in **[Laughter]** but I really absolutely cannot believe that the saintly giving charity welcoming the Minister for Economic Development, who has just told us they are bringing their children here, they are schooling them, and for a minimum of £3,000 they are going to get up and leave tomorrow; rubbish. I am sorry, it is not envy; I am absolutely ashamed that I have got respectable Ministers here who are kissing the feet and so frightened that they think £3,000 will make people leave this Island. It is absolutely unbelievable. I was not sure which way I was going to go. I even, like Deputy Tadier, had worked it out, well, it is only £18,000 extra, or something like that, and then read it was a percentage of that. I am sorry, these people, do welcome them with open arms but keep it real and keep it equal, and do not tell me later on: “We have not got this and that for the people in need” because we know the people who are struggling. I speak for everyone, bring them in, do not mind, but pay your way. £3,000; no way, they are not going to leave the Island for that and, if they do, I would pay their plane fare, but I cannot afford it, I am sorry.

1.2.16 Deputy T.M. Pitman of St. Helier:

I am glad I rushed back for this debate. I would just like to read all Members a little bedtime story from my favourite award-winning, world-famous economist, Ha-Joon Chang. The myths that are pedalled in this Assembly sometimes, it is quite frightening, and then people buy into it because they think it must be true. So it is not too long, but we are talking about upward redistribution of income. What Chang says is all this upward redistribution of income might have been justified, and he is talking about globally obviously: “... had it led to accelerated growth, but the fact is that economic growth has slowed down since the start of the neo-liberal pro-rich reform in the 1980s. According to World Bank data, the world economy used to grow in per capita terms at over 3 per cent during the 1960s and 1970s, while since the 1980s it has been growing at the rate of 1.4 per cent per year” that is from 1980 to 2009. This is the important bit: “In short, since the 1980s, we have given the rich a bigger slice of the pie in the belief that they would create more wealth, making the pie bigger than otherwise possible in the long run. The rich got the biggest slice of the pie all right, but they have reduced the pace at which the pie is growing.” The important bit, and I will not go on and on, is that he points out that the only way to ensure we get some real benefit from these policies is if you have regulation in place that makes these people getting these lovely tax breaks invest their money. Jersey does not do that enough. I applaud people like Mr. Kirsch and what he does, it is absolutely commendable, but Mr. Kirsch is very open and will say he can do what he does because of the wonderful breaks that he has been given by this Island, breaks that most ordinary people could not even dream of. If Mr. Kirsch can do things like he is doing, why can others not? Deputy Southern is asking for something that is not only sensible, but it is moral, and when we hear this - I am looking for a word that will not get me into trouble - absolute nonsense that they will all be on the plane or on the boat, nonsense. “We are all in it together”, Senator Le Gresley said, and I know he means well, but no, we are not in it together. This Government, like Republicans in America, Conservatives in Britain... it is just spin, it is nonsense, it is offensive to people who can barely have a roof over their heads. Someone mentioned Plémont; well, again, as I have said before, Maslow’s hierarchy of needs, you do not worry about the paintings to put on the wall if you have not even got a roof and 4 walls. That is what most people in this Council of Ministers have lost touch with. What was it we heard, same sort of theme a couple of years ago: “We must give into 1(1)(k)s” I brought a proposition with more information than the Minister for Treasury and Resources; I spoke to more, I bet I know more 1(1)(k)s. They might not like me, but at least I speak to them. What did we do? We stopped school milk, we took away learning trips to Durrell, £33,000, which cost the organisation more to run, and then we had

this ridiculous shroud-waving that we had to give breaks to 1(1)(k)s and £440,000, I think it was, to build another finance office in the Middle East. Some people really want to get in touch with reality before they start spouting this tripe. Can I say “tripe”, Sir?

The Bailiff:

“Tripe” is probably permissible. [Laughter]

Deputy T.M. Pitman:

Thank you. Tripe. “Utter tripe”, that is my word now. Utter tripe, and I am not talking about the sort that my dog likes to eat. It is nonsense. It is not even defensible. We are not talking about some jealous Leftie whinger, like Deputy Martin has put across. I am not envious of these people. Award-winning economist: they show that the policies emanating from our Government on tax are absolute tripe but, worse than being tripe, they are immoral, they are damaging to the social fabric of the Island and anyone who votes against this, quite frankly, in my view and the ordinary people I talk to, should be ashamed. I will definitely be supporting the Deputy.

1.2.17 The Connétable of St. Mary:

Just very briefly, because I am quite amazed by what I hear sometimes. We have heard today in an earlier debate, Deputy Tadier criticising the fact that there is no coherent policy-making coming forward. People have talked about £3,000, or thereabouts, not being a critical factor in people staying or leaving. We have also heard that, when it comes to attracting new 1(1)(k) residents, we are already in the higher reaches of cost. We have already got things stacked against us and yet we have heard from all around the Chamber that 1(1)(k)s can be very beneficial to the Island and can make valuable contributions in other areas, help so much. But what is the critical thing here? The critical thing, really, surely in deciding what you are going to do, where you are going to spend your time, where you are going to put your home and invest in your children’s education, et cetera, is stability and consistency. What I would be looking for if I was ever in that fortunate position is I would be looking to be sure that any changes to what had been agreed with me when I started would be done in a measured way, after consultation, and in the proper process of things. As the Constable of St. Lawrence said, we have done that once and we probably need to do it again, but we would need to let the ramifications of what we have done 18 months ago, or whatever, settle first. That is what this is about, this is about taking the policy that we have forward and then changing it at the right time, it is not about just changing it to fit the figures.

[11:30]

Really, I am getting increasingly tired of other Members of this Assembly telling me they will judge me about being fit or not fit or out of touch or in touch on the way that I vote, because it is up to all of us to make that decision for ourselves, and not to be criticised by other Members ... I really am getting rather tired of that particular argument. I will not be supporting this amendment because I think this is not the time to do it. That is not because I do not think it probably should not be done at some stage, but this is not the time to do it. I know Deputy Southern is going to say the Budget is exactly the time to do it, but we have a system in place for doing this, we will have a review, we have already been discussing how we have reviewed in the past, and we will be doing it again. It is as simple as that. This is not the time because we need to keep our credibility and our stability and when we do have policies that we put in place with the agreement of this Assembly, we have to let those policies run and see how they develop.

1.2.18 Deputy J.M. Le Bailly of St. Mary:

We have 3 industries: finance, agriculture and fisheries; we forget the other main industry, 1(1)(k)s. They are not subsidised, they are the backbone of our tax revenue. They too suffer from the

recession. Now is not the time to move the goalposts. Let us encourage more not deter them; they are the people who keep our taxes low.

1.2.19 Deputy J.A. Hilton of St. Helier:

I have lost count of the number of times that one of the main arguments put forward for not changing the 1(1)(k) policy is how easy it is for people to get up and move. I am just getting a little bit exasperated with hearing that argument yet again. Previously, I have supported that argument but I think we have come to the point where things have changed so dramatically in the last couple of years, and ordinary people in our society have been squeezed and squeezed and squeezed. I feel now that the time has come that we need to change things, we need to take on board how difficult it is for people outside of this Assembly managing from day-to-day with all the increases that they are facing. When I came here this morning, I read the comments of the Minister for Treasury and Resources. I did think to myself: "Well, he has imposed this new regime in July 2011, it is not unreasonable to allow it to bed in then look at it again." But then, listening to all the points and the arguments that have been put forward by Members this morning, I too have asked myself. We are talking about a small sum of money, just over £3,000, for individuals who are extremely wealthy by most standards. Deputy Young mentioned equity in society; surely we are all here to see that there is fairness, the decisions that we make are fair to the majority of people who make up our society. As I said, I am not convinced that 1(1)(k)s are going to get up and go because they are asked to pay an additional £3,000. Jersey is a fantastic place to live in and to relocate to. When you compare it to places like the Isle of Man, I know there is concern about they have maximum tax of £115,000, but when you compare to places like the Isle of Man, Guernsey, Switzerland, Jersey has so much to offer individuals and their families. Other Members have alluded to our very good schooling system, fantastic beaches, a quality of life that I believe is unbeatable anywhere else. It is an absolutely brilliant place to be. I want to encourage 1(1)(k)s to come to Jersey and to contribute to our society for everything they can bring, but I have listened to the arguments this morning, and I am going to support Deputy Southern on this one. £3,000, at the end of the day, is just a drop in the ocean for the average 1(1)(k) that comes here, and I am not convinced that it is going to make any difference to the argument of whether they do or do not relocate here. The message that we need to send out from this Assembly to the people of Jersey is that we are considering everything in a fair manner, and I think that is so important. The people out there need to know that we are doing that for them because times are really tough, they are hard. So, as I said, I am going to support Deputy Southern on this one.

1.2.20 Senator I.J. Gorst:

I find myself in a strange position knowing that perhaps everything I want to say now is in breach of Standing Orders, but I will leave that for you to rule, Sir.

The Bailiff:

On the basis of what has been said already? **[Laughter]**

Senator I.J. Gorst:

Indeed, yes. If I could just simply remind Members of some of what I think were extremely well-made points by the Minister for Treasury and Resources. We have heard a number of speeches today from some individuals who are and have been against the principle of 1(1)(k)s throughout their political lives, and I respect them for that; I think it is a perfectly appropriate view to hold. This Assembly, however, has in the past acknowledged a different view, and that is that we do want to encourage those wealthy individuals who are going to invest in our community and are going to stimulate our economy, and are going to produce jobs and produce new opportunities. So I am of that opinion and I think that is the right approach. We seem to be arguing about should we make a decision today to increase the amount that we expect from 1(1)(k)s in line with inflation today, or

should we wait and allow the Minister for Treasury and Resources and his officers to provide fuller and further information with regard to how the changes that we recently introduced have affected the 1(1)(k) regime. Has it produced that inward investment that we all want and support and, if it has not, then we will have some further difficult decisions to make about that regime. I do not believe that we should simply make this decision today based on the proposal of the Deputy, and I do not think that is the right way to go. I do believe that we should let the Minister for Treasury and Resources do his work and come forward, if necessary, with changes. Deputy Southern, when he moved his proposition, acknowledged that there was agreement, to a certain extent, between Treasury and himself with regard to making sure that the baseline value is maintained and we do not find ourselves in the position that we have in the past, and the Minister for Treasury and Resources and myself are aligned on that, we both wish to see a mechanism which will do that, but which will not have unintended consequences. Quite simply, I would ask that Members do not support this amendment today, that they allow the Minister for Treasury and Resources to do his work, that is what his office is there for: to come forward with all the information to allow us to make properly and appropriately-informed decisions. I hope that this debate is not going to continue to be divisive in the way that it has been up until now, there is not a need for it to be, it is simply, let us have the further information so that we can make an informed choice rather than just on the information we have before us.

1.2.21 The Connétable of Grouville:

I am surprised that this debate has taken so long because, to me, it is quite obvious that 1(1)(k)s are a most important part of our lives and a most important part of our tax revenue. When they are making decisions to come over here ... I have spoken to several of them, and what they are not really interested in is cutting a bit off, £3,000 here or £50,000 there or £20,000 there, what they are interested in is the stability of the Island, and that is our most important asset. We are stable, we do not tinker and we do not change with the rules affecting them. We must keep ourselves in a situation where they will know long term that they are safe, that they have a stable environment and that we are not going to start tinkering around and messing about with them. That is about all I would like to say. I just think we must bear that in mind: that stability is far more important than the amount they are paying.

The Bailiff:

Does any other Member wish to speak and add something new to the debate? **[Laughter]** Deputy Higgins?

1.2.22 Deputy M.R. Higgins:

I may not be adding anything new to the debate, but I am certainly standing up to put my flag to the mast. Basically, I think this House is divided; we know there are those people who believe the 1(1)(k)s, cannot touch them, cannot do anything to them, and there are the others who believe in equity and fairness in terms of the tax system. I put myself firmly in the last category. I think our tax system is immoral, it is grossly unfair. We should have a progressive taxation, I agree totally with Senator Gresley on the progressive tax system. I believe that those who do earn more should contribute more. I am not saying fleece them, nobody is talking about taking every last penny from them, but I do believe those people should be contributing. One thing that does not come into the debate when we talk about taxation is, among other things, social mobility and the ability of people to get on in life. We have a system where we have engrained people in poverty or in low incomes. If you think of, for example, the social security system - and I am sure the Minister for Social Security himself will agree with this statement - we pay subsistence; people are getting enough to get by, in fact, in some cases not even getting enough there. Because I have been down at his office and other Members have, trying to get funds for people who are really struggling. Those people

have got no prospect of getting ahead. For example, I know that Deputy Tadier and others ... people want to go to college to get new qualifications so they can get ahead, but if they are on income support then they are going to lose their income support if they do. We are putting people into a box and we are going to keep them there, and they are not going to get out of it. You will never get any progression in this Island because we always keep in saying: “Oh, we cannot afford to do this. We cannot afford to do that.” If those who have got the money paid more - and they can afford to pay more on a progressive taxation system - then we would have the money to help those people to get out of that box and out of that subsistence position. I do think our system is immoral and the arguments that we keep on using to protect, let us say, the 1(1)(k); £3,000 is neither here nor there, and when it comes to a decision whether to come to the Island or to leave the Island, it will not even come into it. So on this particular one, I will support Deputy Southern fully. The other thing to bear in mind is: if you do not index-link taxation ... and what do we do, by the way? Every year, we have a Budget and we keep on raising things, and we either increase the allowances in line with inflation so people do not fall behind, or we do this, we are index-linking everything except, in this case, the 1(1)(k)s. If we do not index-link the sum they pay, the tax take from that source falls. Do not believe that this £3,000 thing is going to be the deciding issue, it is not. Let us be equitable, let us be fair to everybody and let us support this proposition.

The Bailiff:

Does any other Member wish to speak? Then I call on Deputy Southern to reply. Deputy Noel.

1.2.23 Deputy E.J. Noel of St. Lawrence:

[Laughter] Sir, with that look, I will be very brief. I would just like to pick up a point that Deputy Hilton and others have made, and the good Deputy is absolutely correct, the 1(1)(k)s that are currently here will not move away for £3,000 a year, she is perfectly right and others who have mentioned that are perfectly right. What will have an effect is that those who are thinking of coming here will not come, and it will not because it is £3,000, it is because we keep changing it every 18 months. That is what will put off new people coming to the Island. It is not the amount, the amount is immaterial, it is the fact that we keep moving the goal posts. I said I would be brief.

1.2.24 Connétable S.W. Rennard of St. Saviour:

I will be brief. I am going to support the proposition, not because of a lot of the things that have been said. I have a home near where I farm that has been worked on and I have had a 1(1)(k) gentleman and his wife living there. They have employed people for the last 3 or 4 years to work on the establishment. Those workers have paid tax, those workers have spent money in the town, those workers have done a lot, but these people are also benefiting from being in this Island, the 1(1)(k)s. I am a great believer in not just 1(1)(k)s, from anybody who comes to this Island, if you come to this Island, you contribute and you live among the Islanders. Nobody, I think, has consciously come to this Island thinking: “Oh, gosh, I have got this, I have got this time, I have got this education. Maybe I could go to the Jersey and help them?” The people who come into this Island come to benefit themselves and then us. I would like to see us benefit and go along with them. There are lots of people who contribute, and it is lovely, they pay tax, but I am a great believer if you come to this Island, it is my Island, I have it stamped in my passport; I cannot go anywhere else and, to be honest with you, like Deputy Hilton, I do not want to go anywhere else, I am quite happy here.

[11:45]

But if you come to my Island, I would like you to contribute and be with us and, although I hate to say this because I do not think it is ... we are all in this together and I hope when my proposition comes in in January about our wages, you will all remember this **[Members: Oh!]** oh, no, no, I think you will all remember what you said, that: “We are all in this together and we are standing

side by side. **[Approbation]** So I am going to be voting for this not because I want people to vote for my proposition **[Laughter]** but I want people who are on this Island ... no, I want people to be on this Island because they want to be with Islanders and are happy to contribute to the Island's welfare and the people and our wellbeing. So I will be, strangely enough, voting for this proposition.

1.2.25 Senator S.C. Ferguson:

I think I might have something new to contribute.

The Bailiff:

Right, then, Senator we look forward to hearing it then, please. **[Laughter]**

Senator S.C. Ferguson:

Yes. I mean, apart from the fact that I think the 1(1)(k)s have not been overly appreciated over the years and many of them have felt under-employed, but it is the informational content of putting up the tax; it is a marketing phrase, but we are not the centre of the universe, much as we would like to think we are. I happen to love this Island but a message that we are developing a Madame Defarge approach to immigrants is not what we want. For some time, I have been recommending that we should be moving from direct to indirect taxes and, in actual fact, we are doing just that. The increase in the exemption limit, the movement of 20 Means 20 people into the marginal rate, and from the marginal rate into the not paying any rate, is going on gradually.

The Bailiff:

That is certainly new, Senator, but whether it is anything to do with the debate ... **[Laughter]**

Senator S.C. Ferguson:

Well, I am just getting to that, Sir. To consider this particular change in isolation is absolute, to coin a phrase, rubbish. We should be looking at the whole picture and to really ... it just does not make sense. I have heard a lot of information about the gap between rich and poor and so on; well, Mrs. Thatcher did say that a rising tide lifts all boats. Finally, this is just another manifestation of the Nanny State; is it fair? By whose standards? Are they my standards? Are they Deputy Pitman's standards? Are they Deputy Higgins' standards?" It is one of those lovely amorphous words and everybody has got a different definition. Frankly, I think we are looking at this thing in isolation, we should not be; we should wait for the report and do it from there.

The Bailiff:

Does any other Member wish to speak? Then I call upon Deputy Southern to reply.

1.2.26 Deputy G.P. Southern:

I am very pleased that we have had a good, if divided, debate, because we should have strong opinions and we have, obviously, political differences. I think, lest I miss anybody out, everybody for contributing to that debate, whether they were in support or not. Let us start with the promise that I have extracted from the Minister for Treasury and Resources. He says: "I promise to look at the historic 1(1)(k)s." He does not know what he is going to do about them, but he is going to look at the 1(1)(k)s and see if there is a mechanism by which he can make things fairer. He then says: "There may be something we can do on the housing conditions consent", but the Minister for Housing spoke after that and did not give an indication as to what that might be. He also said, and I took his words down exactly: "I will do it before the next Budget." The question is: what will he do? Because the promise was a review; the next Budget, presumably 2014. But what will he do? I think he means review. Now, the fact is he has conducted a very heavy-weight review in 2010, he commissioned the Withers Report, which was to point to the way forward as to which way you can

go. In making his comparisons and saying: “We must remain competitive” you make comparisons selectively with those regimes which are slightly better off than ours. He did not mention, and this is in the Withers Review - and are these devices not wonderful - that, for example, examines Montenegro as one of our competitors: “Montenegro is actively marketing itself as a place for yacht owners with many berths designed specifically to accommodate super yachts. It is also generally considered that the property market has good investment potential. Montenegro will tend to appeal to the more glitzy high-net-worth individual than Jersey, but the interesting fact to note about the regime in Montenegro is that it is experiencing recent success, despite the fact that once a high net worth individual becomes resident in Montenegro, he is taxable on his worldwide income at a rate of 9 per cent on all of it.” They then go on: “This shows that high net worth individuals will still be attracted to jurisdictions where the tax burden is significantly higher than other low tax jurisdictions, provided the right lifestyle factors are offered.” 9 per cent is still significantly less than 50 per cent in the U.K. So it is not the sole arbiter, and when the Minister says that this shows instability and that we should not make this change yet, he then says 18 months ago, we put up the cost of Jersey by £25,000, from £100,000 to £125,000, and he is saying: “But, £3,562.50 will break the camel’s back”. It will not. I am convinced it will not. That does not make us unstable; that makes, as any high net worth individual would state, it sensible: “Oh, I see you have indexed-linked it. What a good idea”. That way, the contribution will maintain its value, and is certain. Deputy Baudains said he is still to make his mind up. I hope he does and he votes in the right way and the significance is, £25,000; £125,000; £3,500: is that really the straw that breaks the camel’s back? I do not think so. The Deputy of St. Ouen: I thank him for his comments and particularly his reference again, and Senator Le Gresley has referred to it in his comments: “I am faced with £3 million worth of benefit cuts”. We are all in this together. We must share the load, including the 1(1)(k) s. The Constable of St. Brelade mentioned that I might be kicking some high net worth individuals. I am not kicking them; I am being sensible about their arrangements. That is what I am doing, certainly no knocking going on here. The Minister for Housing did make a useful point. He started talking about charitable work and charities and came to a balance between tax and charitable giving. Of course, there has to be a balance there but, in my book, charities fill the gaps that tax does not cover. It is not there to replace to taxation. It cannot be there to replace taxation. That is our job as a Council of Ministers and as Government to set the right levels, to provide the services. It is there to cover the gaps, not to replace what we should be doing, properly, for people there. Therefore, even this small amount of individual tax goes to that aim, to provide the services for everybody that we need to provide. Deputy Young made again a good contribution and talked and introduced the concept of equity and Senator Ferguson at the end said: “Whose equity?” Well, without going to a dictionary, I do not think that is very hard. It is about: “We are all in this together” and we must share the burden. That is the equity we are looking for. Nice it was to hear from most of the Constables. I love it when the Constables get involved. There must be a real issue when they do get involved and I praise the Constable of St. Saviour: in particular, I thought that was her best speech yet. **[Laughter]** Deputy Martin went on again about equity. Everyone has to play their part and gets the prize for the first person to mention Plémont. Well done, Deputy Martin. If we are going to prioritise our spending, then please let us prioritise our taxation methods as well and make sensible reform in those, even for the 1(1)(k)s. Time and time again, contributors have said that for the sake of £3,500... Do you know how much it costs people to sell a house and move away? It is not £3,500; it is way, way, way beyond that. People do not lightly up sticks and go, as the Deputy to my left made that point. Deputy Martin said ...

Deputy R.H. Le Herissier:

Politically?

Deputy G.P. Southern:

Yes. **[Laughter]** My left, politically. Today, Deputy Martin offered the support and I am glad for her support, even if my mind has gone blank on names. Deputy Pitman reminded us of some fundamentals about what goes on and certainly quoting Ha-Joon Chang again and his *23 Things They Don't Tell You About Capitalism* which is very worthwhile reading. Again, we talked about review and Deputy Hilton said (at last I have a name): "They will not get up and move" and talked about where the squeeze is being felt. Now I think this is only a little squeeze at the very top end and it is a squeeze that we must do. I remind people indexing taxation mechanisms do not render us unstable. In fact, they introduce a predictable element into it that, once established, will carry on through the years ensuring that the return is proportionate and people know where they stand and they are expecting indexation. The only thing we have not indexed this year is public sector wages but that is a different point altogether. Deputy Noel said that it will not cause people here to move but in the future, they will not come. The evidence from the Withers Report, and the mechanism that has been set up by the Withers Report, says otherwise. It says completely otherwise. People go to various places in order for a combination of lifestyle, stability and taxation and no one in their right minds, and it is an opportunity to repeat this and I do it often, would up sticks and go to the Isle of Man where it rains 300 days a year, if they had a choice of staying here, even if they were paying just a little smidgen extra in tax, compared to the Isle of Man. Certainly Montenegro, as the example says, it is not just about tax because they are talking about 9 per cent tax on world income. So, I maintain the proposition and I call for the appel, Sir.

The Bailiff:

The appel is called for then in relation to the amendment lodged by Deputy Southern. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 16		CONTRE: 30		ABSTAIN: 0
Senator A. Breckon		Senator P.F. Routier		
Senator F.du H. Le Gresley		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator S.C. Ferguson		
Connétable of St. Ouen		Senator A.J.H. Maclean		
Connétable of St. Saviour		Senator B.I. Le Marquand		
Deputy R.G. Le Hérisier (S)		Senator I.J. Gorst		
Deputy J.A. Martin (H)		Senator L.J. Farnham		
Deputy G.P. Southern (H)		Senator P.M. Bailhache		
Deputy of St. Ouen		Connétable of Trinity		
Deputy J.A. Hilton (H)		Connétable of Grouville		
Deputy M. Tadier (B)		Connétable of St. Clement		
Deputy T.M. Pitman (H)		Connétable of St. Peter		
Deputy T.A. Vallois (S)		Connétable of St. Lawrence		
Deputy M.R. Higgins (H)		Connétable of St. Mary		
Deputy J.M. Maçon (S)		Connétable of St. John		
Deputy J.H. Young (B)		Connétable of St. Brelade		
		Connétable of St. Martin		
		Deputy R.C. Duhamel (S)		
		Deputy of Grouville		
		Deputy K.C. Lewis (S)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		
		Deputy G.C.L. Baudains (C)		
		Deputy of St. John		
		Deputy J.P.G. Baker (H)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Mary		

		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy R.J. Rondel (H)		

1.3 Draft Budget Statement 2013 (P.102/2012) - as amended

The Bailiff:

Very well. That concludes then the amendments and therefore we return to the debate on the Budget. Does any Member wish to speak?

[12:00]

Very well, I invite the Minister to reply, although there is nothing to reply to.

1.3.1 Senator P.F.C. Ozouf:

Goodness me, Sir. That is the fastest debate that we have ever had [**Laughter**] on the Budget. I cannot recall ever... but perhaps it is a reflection of the fact that there has been already a debate on a number of amendments and we have already had an M.T.F.P. debate. So I move the proposition and I ask for the appel.

The Bailiff:

Very well. The appel is called for then in relation to the approval of the Budget proposition. . I invite Members to return to their seats and the Greffier will open the voting.

POUR: 42		CONTRE: 4		ABSTAIN: 0
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy M. Tadier (B)		
Senator A. Breckon		Deputy T.M. Pitman (H)		
Senator S.C. Ferguson		Deputy M.R. Higgins (H)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				

Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

2. Draft Finance (2013 Budget) (Jersey) Law 201- (P.103/2012)

The Bailiff:

Very well. Then the Assembly now has to move to consider the legislation which is necessary to put into effect the decisions which it has just taken. The first one is the Draft Finance (2013 Budget) (Jersey) Law - Projet 103/2012 - and I will ask the Greffier to read the citation.

The Greffier of the States:

The Draft Finance (2013 Budget) (Jersey) Law. A law to set the rate of income tax for 2013 and to amend the Customs and Excise (Jersey) Law 1999, the Taxation (Land Transactions) (Jersey) Law 2009 and the Stamp Duties and Fees (Jersey) Law 1998. The States, subject to the sanction of Her Most Excellent Majesty in Council have adopted the following Law.”

The Bailiff:

Yes, if you could move the principles?

2.1 Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

I move the principles, Sir. I move the principles and I will then take the Articles *en bloc*.

The Bailiff:

Very well. Do I gather you are going to be looking at an amendment to one of the Articles, just so that you can alert Members if that is happening? If you can just explain what is going to happen.

Senator P.F.C. Ozouf:

Exactly. I need to propose an amendment, effectively, which is a consequential amendment to Article 5, which deals with the revised amendment in relation to tobacco which was changed as a result of our amendment, which is the 13.2 per cent. It is expressed. Can I propose the proposition with my amendment?

The Bailiff:

Yes, when you come to the relevant Article.

Senator P.F.C. Ozouf:

Yes, exactly.

The Bailiff:

But at the moment, you are just proposing the principles. Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show?

Deputy J.H. Young:

Sir.

The Bailiff:

Do you wish to speak on the principles, Deputy. Sorry, I cannot see your light.

Deputy J.H. Young:

Yes, Sir. Sorry, we have gone so fast but I hope I am able to put a question and speak briefly on the subject of vehicle emission duty which is under this item?

The Bailiff:

Sorry, what?

Deputy J.H. Young:

Under vehicle emissions duty which appears in the Finance Law that we were just about to deal with. So, if I may speak on that point?

The Bailiff:

Well, I would suggest you would speak on it when we come to the particular Article, if there is a point you want to make on it.

Deputy J.H. Young:

Fine. Okay, Sir, I will take your guidance.

The Bailiff:

Very well, all those in favour of adopting the principles of the law, kindly show? Those against? It is adopted. Now then, Minister.

2.2 Senator P.F.C. Ozouf:

I will take Articles 1 to 4 and then deal with the amendment, if that is the most expeditious way to deal with matters. Article 1, standard rate of income tax at 20 per cent; Article 2, the income tax exemption thresholds being increased by 3 per cent rounded to the nearest £10; Article 3 is the Article which amends the Customs and Excise law with all of the increases in spirits and wines on alcohol; and Article 4 is the ... no, I am going to do 1 to 3.

The Bailiff:

No, I think, Minister, you are bringing an amendment to Article 4, as I understand it, because that is dealing with tobacco.

Senator P.F.C. Ozouf:

Yes, I will do Articles 1 to 3.

The Bailiff:

So, you propose Articles 1 to 3 in their original form, as set out in the Bill, which are intended to reflect what was contained in the Budget proposition. Is that seconded? **[Seconded]** Does any Member wish to speak on any of Articles 1 to 3? So, just for clarity, Article 1, as the Minister said, is the standard rate of income tax; Article 2 is income tax thresholds; and Article 3 is alcohol.

Deputy J.M. Maçon:

Sir, can I request a separate vote on alcohol, please?

The Bailiff:

Yes, of course. Yes, any Member can ask for a separate vote on any Article. Does any other Member wish to speak? Very well, then in accordance with that request, I put first of all Articles 1 and 2 to the Assembly. All those in favour, kindly show? Those against? Articles 1 and 2 are adopted. We then come to Article 3 which is excise duty, alcohol. All those in favour, kindly show? Those against?

Deputy J.M. Maçon:

The appel please, Sir.

The Bailiff:

The appel is caused for in relation to Article 3. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 33		CONTRE: 5		ABSTAIN: 0
Senator P.F. Routier		Connétable of St. Clement		
Senator P.F.C. Ozouf		Deputy T.M. Pitman (H)		
Senator A. Breckon		Deputy T.A. Vallois (S)		
Senator A.J.H. Maclean		Deputy M.R. Higgins (H)		
Senator B.I. Le Marquand		Deputy J.M. Maçon (S)		
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

The Bailiff:

Now then, Article 4 as I understand it, Minister, you are going to be presenting an amendment to reflect the decision the Assembly has already taken.

2.3 Senator P.F.C. Ozouf:

I ask the Assembly to effectively take Article 4 as amended, as a consequential amendment, of the 13.2 per cent increase across the board to pipe tobacco, packets of 20 and all the other areas. Members have in front of them the amendment. I move Article 4 as amended.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on Article 4 as amended? Very well. All those in favour of adopting Article 4 as amended, kindly show? Those against? It is adopted. Now Article 5, presumably Minister, you do not propose at all now because of the decision the Assembly took?

Senator P.F.C. Ozouf:

With regret, Sir, that is exactly correct so Article 5 is removed as there is going to be no change. The original law stands. So I withdraw Article ... we do not need to do anything at all with Article 5 but I will not propose it.

The Bailiff:

Very well. Then, do you propose after that Articles 6, 7, 8 and 9 to which there appears to have been no change?

2.4 Senator P.F.C. Ozouf:

I will. I will just run through them if I may, Sir. Article 6: I am expecting a question from Deputy Young that deals with the V.E.D. (Vehicle Emissions Duty) banding. Article 7, the Stamp Duties and Fees Law to introduce some changes in relation to contested Petty Debt Court hearings which I am grateful for the support from the Judicial Greffe in relation to recovery of charges. Article 8, the stamp duty arrangements and this was designed, as I explained in the opening Budget speech, to give the extra relief for the increase for first-time buyers for a further year. Article 9 is the citation. I am happy to answer any questions Members may have.

The Bailiff:

Are Articles 6 to 9 seconded? **[Seconded]** Does any Member wish to speak on any of Articles 6 to 9? Deputy Young?

2.4.1 Deputy J.H. Young:

Thank you for giving me a breathing space to find my notes. I would like to ask the Minister for Treasury and Resources a number of questions about this Article. Obviously, we have not had the opportunity to debate it because there were no amendments and I certainly missed it myself. But I notice now obviously the schedule that we are just about to approve increases these rates of vehicle emission duties by 5 per cent which will raise an additional £50,000 of income. This may seem small compared with the other matters but nonetheless, I would like to know if the Minister could tell us what happens to that money? Are the monies from this emission duty ring-fenced and will they be put back into environmental measures? I also note, in the notes earlier, that the yield from this tax is effectively disappointing. The Minister says it was expected to raise £2 million. Well, we only got £1 million which seems to reflect, I think on the notes, people buying lower emission vehicles which is obviously good news for the environment. So, I suppose my question is, if this is working, could the Minister explain to us, what is the treatment of this £50,000 extra income? Is it

ring-fenced, is it spent on the environment and if he could perhaps say a word to, if I am allowed to do this, why it is necessary to increase this rate by 5 per cent?

2.4.2 Deputy G.C.L. Baudains:

I wonder if the Minister for Treasury and Resources could just clarify for me whether the duty for classic vehicles pre-1980, if my memory serves me correctly, is affected by this.

2.4.3 Deputy T.A. Vallois of St. Saviour:

I would just like to ask the Minister to, under Article 7 and the stamp duty, with regards to if the claim exceeds £3,000, there is to be charge. Could the Minister explain where there have been cases of this happening and who it is more likely to affect. It is just a little bit more information around that Article 7 area because although reading through the Budget Statement and the legislation itself, there are no clear examples or evidence as to why we are making a legislative clampdown on that area. So, if the Minister could just explain a little bit further, please?

The Bailiff:

Does any other Member wish to speak? Deputy Young, you have already spoken I am afraid. You cannot speak again.

Deputy J.H. Young:

I thought we were discussing Article 6? You are telling me now we are not. So, I have no opportunity to speak on Article 8?

The Bailiff:

Well, we are debating Articles 6, 7, 8 and 9. We are discussing them all. They have all been proposed. Well, Deputy, if you misunderstood the position, I am sure the Members will agree to let you speak.

Deputy J.H. Young:

I did misunderstand. I am sorry but thank you, Sir.

The Bailiff:

But you will not be able to do it again. **[Laughter]**

2.4.4 Deputy J.H. Young:

I promise I will not make it a habit. On the Article 7, I really wanted confirmation about this change to the court fees stamp duty which I think is about the contested proceedings that take place in our Petty Debts Court. I am aware this is a very important and useful part of our legal service because it is available to what I might describe as “ordinary people”, ordinary members of the community who wish to enforce debts, both to the people who own it. It is a good opportunity in this process to have an arbitration process, an informal one. My concern about loading costs is can we have confirmation, please, that this new stamp duty that is being introduced on this valuable service is only payable by plaintiffs and that therefore it is not likely to be on the defendants because obviously, at the moment, there is an opportunity for defendants to argue their case in a lay court which is very friendly to them. I would like to hear the Minister’s comment on that, please, and if I can just move briefly to my comment on my question on Article 8 which is stamp duty for first-time buyers. I am very pleased, of course, that this measure is being introduced when I would like to set what I suppose is something one could call a flag. Of course, the property market is a depressed state and our current stamp duty rates goes up on a scale to 5 per cent, which is some 10 times what most law firms charge. Most law firms charge for legal fees about 0.5 per cent where this scale goes up to 5 per cent. So, I think the concession is welcome, but my question, is it

enough and will the Minister make any comment and appear to have a look at it because I think the inflexibility in the property market is certainly not helped by the very high stamp duty being levied on property transactions.

The Bailiff:

Does any other Member wish to speak on Articles 6 to 9? Very well. I invite the Minister to reply.

2.4.5 Senator P.F.C. Ozouf:

Dealing with Deputy Young's questions first, I realise that he was not in the Assembly but the Treasury was in a difficult position. I would ask Members if they want to look at the detail of this, to turn to page 32 of the Budget Statement. V.R.D. (Vehicle Registration Duty) was the precursor to V.E.D. This Assembly abolished V.R.D. and we lost £7 million. We then reintroduced V.E.D. in relation to importation taxes which was based on a much more environmental scale which is about CO₂ emissions.

[12:15]

As Members will see, effectively, the amount of duty that is paid under V.E.D. does rise very steeply in relation to the emissions of cars. Now clearly, there have been a number of estimates that were made on V.E.D. and there are a number of things that are at play and I absolutely agree that the original estimate for V.E.D. when it was introduced in September 2010 had an estimated income of £2 million and we have fallen short of that estimate. I have had various different numbers from the car industry. The overall numbers of car registrations have fallen. There is no doubt at all about that and clearly, I am not sure that V.E.D. is making the difference between people buying a certain CO₂ emission car or not but clearly the amount of cars that have been sold in Jersey is less. We are nowhere near the amount of revenue that we are collecting on car purchases as we were with V.R.D.. I need to say to the Deputy that I think he knows the accounting rules of the States just as well as I do and there is no ring-fencing. We do not do hypothecation as a direct link. To do so would be extremely bureaucratic, would be extremely uncertain for those departments that we are saying that we are going to get the income. So, the Treasury, for as long as I have been involved, and before, avoids doing hypothecation because it is uncertain for the departments that are receiving the revenue, and I will talk about who got the revenue when we did make a linkage and, effectively, it would mean bureaucracy and administration which we do not want to have. We would have to have all sorts of separate funds and accounting arrangements which we did not want to do. Now, the Deputy is correct to say that when we proposed V.E.D. we did link some expenditure. As I recall, and I know the current Minister for Planning and Environment has particular views about green taxes and it is something that we are going to have an ongoing discussion about green taxes because you can go further in terms of changing behaviours, so I do not want to get into another moral argument about green taxes or otherwise. But it was designed to raise revenue and some of that revenue went to the Planning Department for their energy efficiency service. I recall that there was about £1 million going into that. There were also other transport initiatives that were funded as a result of it. The revenue did not come in but the department still got the money. Now what we are proposing here is a very modest increase in effectively V.E.D. and I am not suggesting there is going to be any radical review of V.E.D. again. I still regret having lost the V.R.D. revenue. We impaired our revenues by 5 million on car purchases. There were problems with that ...

Senator L.J. Farnham:

Sir, I wonder if you would just give way briefly for a point of clarification. He is saying, I think he might be slightly misleading in saying, because he did say the Treasury lost money when V.R.D. went. Of course, it went because it was replaced by G.S.T., so could he just clarify that?

Senator P.F.C. Ozouf:

No, the Senator is not going to get away with that. **[Laughter]** G.S.T. was a flat, low rate of tax which went on everything and I am afraid that there was not a negotiation that we would somehow reduce duty rates on other areas to somehow compensate for G.S.T. So, I am afraid, that is not correct. I am not giving way. The matters are quite clear, I think. The Senator knows it in relation to the fact that G.S.T., separate issue across the board, et cetera. So, to Deputy Young, I hope that answers the questions. I am happy to engage with his Scrutiny Panel and indeed, the Minister for Planning and Environment, on the issue of green taxes. These are modest increases. In relation to his other concern about contested cases and the whole issue of raising revenue from the court service and the use of court facilities, I have to say that I am advised by the court service and the Judicial Greffier, and we have been at pains to ensure that we do not do anything to stop the effective functioning of the small claims arrangements in Jersey. But where there is a cost of litigants that are using the court, we are trying to recover costs and this is a C.S.R. objective which was set out in the original White document on the material that was sent around to States Members on the C.S.R. objective. This is a C.S.R. objective of raising revenue and I am advised that there is to be no undue consequences. We had consulted on that and we have spoken to court users and certainly, the normal people that would be concerned with these issues have not raised any concerns whatsoever. In relation to the stamp duty arrangements for first-time buyers, I am always slightly nervous about effectively creating unintended market distortions with first-time buyers and others. The benevolence of politicians in trying to get effectively people into home ownership can cause unintended consequences. Last year we extended the relief for first-time buyers, lifting the amount of money. I cannot answer the question in detail by Deputy Vallois because I do not know of any particular questions that have been alerted in Article 7. I am not aware of that. I am not aware that that has been used but if there is, then I will advise the Deputy later on. I cannot say that we will extend it for a further year. I think it is too early to say. Certainly, the relief that was extended for one year is something that I would want to examine with the Minister for Housing. But the issue of house purchase and getting people into home ownership is about supply. It is about supply of social housing and it is about supply of affordable homes and that really is our major initiative to try and get people into home ownership. So, I think that answered all the questions that were raised. I cannot answer Deputy Vallois. I am not aware of the issue that it has been used in terms of her question but I will answer that question later. I think I have answered all the questions. I move Articles 6 to 9.

Deputy G.C.L. Baudains:

With respect, you did not answer my question about classic vehicles and whether the, I think it was pre-1980, tax situation was changed by this or not.

Senator P.F.C. Ozouf:

There were no changes to the previous arrangements. They are just simply uplifting the V.E.D. arrangements. I move Articles 6 to 9.

The Bailiff:

Very well. Will all those in favour of adopting Articles 6 to 9, kindly show? Those against? They are adopted. Do you propose the Bill in Third Reading?

Senator P.F.C. Ozouf:

I do, Sir.

The Bailiff:

Is it seconded? **[Seconded]** Does anyone wish to speak on Third Reading? Will all those in favour of adopting the Bill in Third Reading, kindly show? The appel is called for in relation to the Draft Finance (2013 Budget) (Jersey) Law in Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 41		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

The Bailiff:

Then, Minister, as I understand it, you will, in accordance with normal practice, be asking the States to consider an Acte Operatoire to give it immediate effect. Is that right?

Senator P.F.C. Ozouf:

Yes, Sir.

The Bailiff:

Just before we do, then, I will ask the Greffier to read the Act.

The Greffier of the States:

Act declaring that the Finance (2013 Budget) (Jersey) Law 201- shall have immediate effect. The States, in pursuance of Article 19, the Public Finances (Jersey) Law 2005, have made the following Act.

The Bailiff:

It is tired from overuse, is it? [Laughter]

2.5 Senator P.F.C. Ozouf:

Maybe I will just move across to my friend the Minister for Home Affairs and use his microphone. Technology is ever a problem. For new Members of the Assembly, the Finance Bill, which is, of course, primary legislation, is effectively the only piece of legislation that the States, by making an Acte Operatoire, can bring it into immediate effect, notwithstanding the fact that there is then subsequently, we hope, Privy Council approval. This, effectively, is an Act which declares all of these arrangements to bring it into immediate effect, and I move the Act.

The Bailiff:

Is the Act seconded? [Seconded] Does anyone wish to speak on the Act? Will all those in favour of adopting the Act, kindly show. Those against? The Act is adopted.

3. Draft Income Tax (Amendment No. 41) (Jersey) Law 201- (P.104/2012)

The Bailiff:

We come next, then, to the Draft Income Tax (Amendment No. 41) (Jersey) Law - Projet 104/2012 - lodged by the Minister for Treasury and Resources, and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Income Tax (Amendment No. 41) (Jersey) Law. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

The Bailiff:

I invite you to propose the principles.

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

Sir, I am going to ask my Assistant Minister to be the rapporteur for this important piece of legislation.

3.1 Deputy E.J. Noel (Assistant Minister for Treasury and Resources - rapporteur):

I propose the principles of the Draft Income Tax (Amendment No. 41) (Jersey) Law 201-, as amended. This law gives effect to the income tax provisions proposed in the 2013 Budget, and if Members wish I will explain those in further detail in the Second Reading.

The Bailiff:

Very well. So, you are just proposing the principles at the moment. Are they seconded? **[Seconded]** Does any Member wish to speak on the principles? Will all those in favour of adopting the principles, kindly show? Those against? The principles are adopted. Now then, Assistant Minister, how do you wish to propose the Articles?

Senator S.C. Ferguson:

I can assure you Scrutiny does not want to look at it, Sir.

The Bailiff:

With Budget legislation that is exempt from the provisions which ... **[Laughter]** So even if you wanted to, Senator... Assistant Minister, there is an amendment to Article 3, so you will have to take that separately. Do you wish to propose Article 1, first of all, as interpretation, and Article 2?

3.2 Deputy E.J. Noel:

Yes, please, Sir. I would just like to quickly outline, obviously, that Article 1 is the amendment principles. Article 2 sets out the provisions for taxing distributions of Jersey resident shareholders and, as you say, Article 3 as an amendment. I propose Articles 1 and 2.

The Bailiff:

Is it seconded? **[Seconded]** Does any Member wish to speak on Articles 1 or 2?

3.2.1 Senator S.C. Ferguson:

I wonder if the rapporteur would be able to explain exactly how this is going to work for Jersey residents receiving dividends from local trading companies, because there seems to be a degree of confusion about how it is going to work. At the moment it appears that a dividend would be paid to local shareholders of a local trading company out of the profits that have not been taxed, and therefore the dividend will be taxable in the hands of the shareholder. It does not get paid with a tax credit attached and therefore the shareholder is going to get a lower dividend. So, if the rapporteur would like to explain it properly it would be appreciated.

3.2.2 Deputy G.P. Southern:

I too would like to know what this particular amendment is doing. I believe it is the replacement for look-through and deemed dividend. It is absolutely vital that we get this right so we absolutely need a full and detailed description, I think.

The Bailiff:

Does any other Member wish to speak? Then I invite Deputy Noel to reply.

3.2.3 Deputy E.J. Noel:

To try and put this in simple terms for Senator Ferguson, if a trading company creates a £100 dividend, the shareholder who receives that dividend will be taxed at a rate of 20 per cent in the hands of the shareholder. So, they all pay £20 tax if they were a 20 Means 20 taxpayer. To give more clarity to Deputy Southern, this has gone ... we have had many presentations to States Members on this matter. This is, in fact, replacing the deemed distribution rules with anti-avoidance rules that are code-compliant. It is to ensure that shareholders, owners of companies that are resident in Jersey, both the company and the individual, will be taxed on any income that is distributed from that company at a rate that is relevant to that individual I think that is clear.

Deputy S.C. Ferguson:

Point of clarification, Sir. As a very simple politician, would the Assistant Minister like to confirm that the tax, the dividend which is taxable in the hands of the shareholder, is paid out of profits that

have not been taxed under the new system, and therefore, in effect, the shareholder is going to be getting less in terms of dividend?

[12.30]

Deputy E.J. Noel:

I cannot be much clearer than I have been. If a company pays a £100 dividend to its shareholders, that shareholder, if they reside in Jersey, will have income of £100 from that company, and therefore they will be taxed at a rate of 20 per cent.

Deputy S C. Ferguson:

I am sorry. I do not think the rapporteur ... this is a very important point. Under the old system dividends were paid with a tax credit and the dividend was in your tax return but you were given a credit for the attributed dividend, the attributed tax, because it was paid out of tax profits. So, your £100 dividend was £100 in your hot little hand, to go and spend. As I understand it, your £100 dividend that you are going to be paid will now be, if you are paying at 20 per cent, £80 in your hot little hand to spend. I am asking the rapporteur to either explain, confirm or to say I am wrong.

Deputy E.J. Noel:

I am happy to explain this. Senator Ferguson is talking about what happened prior to Zero/Ten. What happened prior to Zero/Ten is that a company made, say, £125 profit per year. It paid 20 per cent tax, so therefore it paid £25 tax leaving a net £100. That £100 was distributed to its shareholders. Therefore the shareholder paid no more tax on those monies because it was a tax paid dividend. They had £100 to spend. Now we have Zero/Ten. That company still makes £125 profit a year but now it can distribute £125 as a dividend. Therefore the individual that receives that dividend has a gross of £125. They pay 20 per cent tax, they pay £25 to the Minister for Treasury and Resources and they are left with £100 in their pocket to spend. There is no difference.

Deputy G.P. Southern:

Can I seek further clarification? It's like Mutt and Jeff. Is the Minister saying that that dividend is taxed at 0 per cent or is he saying it is not taxed, because I think that is a difference if we are operating with a zero tax rate. Further, he mentioned that this was code compliant. What evidence does he have or what research has he done to say that this will be code compliant?

Deputy E.J. Noel:

Deputy Southern is correct in terms that the company is taxed at a rate of zero. So, these are taxed profits but they are taxed at zero. The new arrangements are not a company tax which the code refers to. It is not a corporate tax which the code refers to. The new arrangements are about distributions that are received by individuals. Therefore, it is code-compliant.

The Bailiff:

Very well. All ...

Deputy M. Tadier:

Sir.

The Bailiff:

I am sorry, Deputy. You had not spoken and this was in reply.

Deputy M. Tadier:

I have been in the debate, Sir, and I did not know where we were, so that is probably a relief for everyone, I think.

The Bailiff:

Very well. All those in favour of adopting Articles 1 and 2 kindly show. The appel is called for in relation to Articles 1 and 2. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 35		CONTRE: 2		ABSTAIN: 0
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator P.F.C. Ozouf		Deputy G.C.L. Baudains (C)		
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

The Bailiff:

Assistant Minister, in connection with Article 3 you have lodged an amendment, so do you wish to propose Article 3 in its amended form? In which case if you are, I think I should ask the Greffier to read the amendment. It is very long. Are Members content to take it as read or do they want it read out? Does anyone want it read out? No. Take it as read. Very well, so this is Article 3 in the form in which it has been amended by the Minister's own amendment, and I invite you now to propose Article 3 in that amended form.

3.3 Deputy E.J. Noel:

I would like to propose Article 3 as amended.

The Bailiff:

I think you had better tell Members what it is about. **[Laughter]**

Deputy E.J. Noel:

Excuse me, Sir. I am just trying to find my page now. Article 3 as amended sets out the new definitions for distribution. The new definitions include things that are not currently treated as distributions for the purposes of principle law; such things as cash dividends, dividends that have been paid out of ... sorry. What we are trying to achieve here is to make sure that amounts that have been distributed from companies are income receipts and we are not trying to introduce a capital gains tax by the back door. So, this is the detailed definitions. I am stumbling because I have managed to lose my papers somewhere in transit. It also covers things coming up from distributions from law under the terms of loans, whereby previously individuals could lend money to their companies. The company could use those funds to generate profits and then repay the loan and not the profits. So, Article 3 ensures that any distributions coming out of the companies are captured as income and not as loan repayments.

The Bailiff:

Article 3 is simply defining distributions to achieve their purpose.

Deputy E.J. Noel:

It is, Sir, and it is quite a long Article. We have looked at different definitions on the different elements to ensure that individuals are taxed fairly on distributions, whatever form they take coming out of the company.

The Bailiff:

Is Article 3 seconded? **[Seconded]** Does any Member wish to make any comments about Article 3?

3.3.1 Senator L.J. Farnham:

Yes. I just want to ask for clarification about loans. It quite clearly states in Article 3 that any distributions in relation to payments of **[Interruption]** ... It might be mine. There are no fines for iPads yet, are there, for interfering with the system?

Senator S.C. Ferguson:

£25. **[Laughter]**

Senator L.J. Farnham:

I am just making the most of it while I can. The question is, this is quite concerning because when local shareholders have to make *bona fide* loans to companies to provide cash flow or to provide funding for acquisitions or genuine reasons for injecting funds into their company, when the company comes to repay those loans I understand that it will be taxed. If this is not the case could the Assistant Minister please explain how it will work?

3.3.2 Deputy G.C.L. Baudains:

I believe there is a problem with my microphone as well. I have been advised to use the other one. Could the Assistant Minister, in summing up, confirm for me that this is the Article that deals with what was previously tax avoidance by using a company where I know some people of fairly substantial means, instead of receiving money directly, had it put into a company and have then

taken the money out as a loan, which has also enabled them to pay minimum social security contributions and that sort of thing?

The Bailiff:

Does anyone else want to speak? Then I invite the Assistant Minister to reply.

3.3.3 Deputy E.J. Noel:

Senator Farnham's point is correct there, that this covers loans to and from companies, as I previously mentioned. In terms of trading companies what we managed in the amendment we have carved out is the fact that if people want to invest in their businesses, providing the loan is on commercial terms, any loan repayments will not be subject to tax. So, we do not want to hinder investment in business and this amendment we have put through corrects that position because, as originally drafted, it would have captured such loans. For my good colleague, Deputy Baudains, yes, there was some previous legitimate avoidance occurring in the Island, in particular with investment companies, whereby individuals would put their investment portfolios into a company and so therefore it would be a loan to the company, and they would have extracted money as they needed to live on from that company by repayment of the loan, therefore deferring the tax on the income earned on those investments. This amendment captures such transactions and it does what it says on the tin. It is anti-avoidance, so we put these measures in to stop people from arranging their affairs in such a way.

The Bailiff:

Very well. All those in favour of adopting Article 3, please show. Those against? Article 3 is adopted. Would you wish, Assistant Minister, to propose Articles 4, 5, 6 and 7 together?

Deputy E.J. Noel:

If I may, and if I may I would also like to do 8, 9 and 19 *en bloc*, if that is possible.

The Bailiff:

The problem is in 8 and 9 there are amendments which you have lodged, so I think we need to take them separately. You can by all means explain what they will all achieve and then you can be brief when we come to Articles 8 and 9 if you wish.

Deputy E.J. Noel:

Sir, I will stick with your original suggestion, if I may.

The Bailiff:

Do you want to tell Members what Articles 4 to 7 are in brief?

The Connétable of St. John:

Could I propose an adjournment which would allow the Assistant Minister to get his ducks in a row for 2.15 p.m.?

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

I have to say I do understand the difficulty the Assistant Minister is having because I suspect, although I have not read it in detail, that the whole of part 2 deals as a package with distributions and it is quite difficult taking it bit by bit. But I think the trouble is, because there are amendments lodged to some of the Articles, you cannot really take them all as one package, I do not think.

Deputy E.J. Noel:

Sir, I would appreciate an adjournment now. That would allow me to re-configure my notes to take that into account.

The Bailiff:

But if it would assist, Assistant Minister, I think what you must do is try and propose Articles together where you can, but where there is an amendment you need to take that one on its own. But by all means you can explain what part 2 as a whole does in order to help Members get a picture of it. Very well, the Assembly will adjourn and reconvene at 2.15 p.m.

[12://]

LUNCHEON ADJOURNMENT

[14:15]

The Bailiff:

Before the adjournment we were on the Income Tax (Amendment) (Jersey) Law and the proposer was about to propose Articles 4 to 7. Having thought about it over lunch and had a look at it, I think, if Members agree, it would be much simpler if part 2 could be taken as a whole because part 2 deals in its entirety with the question of distributions. It is really very difficult to take one article entirely by itself because they all hang together as a package, and I think it would make everyone's task easier if we took part 2 as a package. Therefore I am suggesting to Members that we should allow the Assistant Minister to propose Articles 4 to 20 but on the understanding that Articles 8, 9 and 19 are in the amended form as put forward in the Minister's amendment. Do Members agree that is a sensible way forward? So, Assistant Minister, I hope that is plain, then. I am inviting you to in effect propose the whole of part 2 which is everything to do with distributions, which should enable you then to give a general description of what these Articles are intended to achieve, and then take questions.

3.4 Deputy E.J. Noel:

I thank Members and particularly yourself, Sir, for clarifying the situation. As Members will know, income tax law is quite a complicated subject, which is probably why I am doing it and not the Minister himself. **[Laughter]** So, if I may indulge Members further, I will now present part 2. Part 2 of the Income Tax (Amendment) includes new rules on how distributions from Jersey companies paid to Jersey shareholders are calculated and taxed. This is because, in the absence of the new rules, there is an opportunity for Jersey residents to hold investments or operate businesses for a company and extract profits from that company without paying tax. This issue arose following the repeal of the Deemed Distribution and Attribution Laws from 1st January 2012. These new rules seek to address this issue. In summary, the new rules are intended to ensure that when untaxed profits are extracted from a company they are subject to tax in the hands of the individual shareholder. The new rules do not seek to tax profits that are kept in the company or are reinvested in the company's business. This is a fundamental difference to the deemed distribution rules which tax company profits even if they were not distributed. To move into the details, the definition of distribution in our existing law is very narrowly defined and there are many ways of extracting value from a company which would not currently fall within this definition. So, the definition of a distribution has been extended to cover most types of value extraction. The new rules also introduce calculations to determine how much of a particular distribution will be taxed. Broadly, the distribution will only be taxable to the extent that the company has accrued untaxed profits. As Members are aware, the Minister has lodged an amendment to these new rules. Most of the changes are minor, to deal with an element of double taxation and to clarify certain aspects under the law. There are 2 more notable amendments. Firstly, commercial loans to trading companies have been excluded from the definition of distribution, addressing the concerns of

Senator Farnham which he raised earlier, before lunch. This is an amendment to Article 3 as we discussed before lunch. The second more notable amendment is the introduction of what has been labelled as the simplified basis. The simplified basis is available to all taxpayers who want to adopt it by way of an election. Under the simplified basis none of the calculations are required but the individual is taxable on all the distributions he or she receives, and this is the amendment to Article 9. It is up to the taxpayer to choose which basis will apply to them, so that there is no incidence of a potential higher tax liability being forced on the taxpayer. So, this is a very quick summary of the rules and in summary, these are intended to introduced robust legislation which seeks to prevent Jersey residents from avoiding tax through Jersey companies. With your agreement, I propose the Articles that fall within part 2 of the Income Tax (Amendment No. 41) (Jersey) Law, as amended.

The Bailiff:

We have already dealt with Articles 2 and 3 so technically it is Articles 4 to 20, and with Articles 8, 9 and 19 being in an amended form as amended by the Minister's own amendment. Is that seconded? **[Seconded]** Does any Member wish to speak on any of those Articles?

3.4.1 The Deputy of St. Ouen:

I have just a brief question that perhaps the Assistant Minister could answer. Will this new law have any impact on the tax agreements in place with 1(1)(k) residents?

The Bailiff:

Does any other Member wish to speak? Then I invite the Assistant Minister to reply.

3.4.2 Deputy E.J. Noel:

1(1)(k) residents, Jersey resident companies that they have are subject to this. I take it that answers the Deputy of St. Ouen's query.

The Deputy of St. Ouen:

Will 1(1)(k) residents be treated the same as Jersey residents when it comes to this tax?

Deputy E.J. Noel:

To the extent that they would be using Jersey companies, yes.

The Bailiff:

Very well. Will all those in favour of adopting Articles 4 to 20 kindly show? Those against? They are adopted. Do you wish to propose part 3, Assistant Minister? It seems to deal with one topic; intermediary service vehicles.

3.5 Deputy E.J. Noel:

I do, Sir, if I may. Part 3, as you rightly said, relates to intermediary service vehicles and it covers Articles 21 to 22. I will come to Article 23 in a moment. These Articles serve to introduce specific targeted anti-avoidance legislation to deter taxpayers from using corporate vehicles for which to provide their personal services. This is an important measure which will ensure that employees cannot avoid tax by providing their services through a company. A P.S.C. (Personal Service Company) is a company which acts as an intermediary providing the services of a director or an employee to clients. These arrangements are such that workers would have to be an employee of that client if he had contracted directly with them. As I mentioned, Article 23 provides that this part shall have effect from the year of assessment 2013 and ensuing years. I propose Part 3.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on Articles 21, 22 or 23?

3.5.1 Deputy G.P. Southern:

It just struck me then. The Assistant Minister just said this will start in 2013. Do companies not pay tax in arrears? Surely, should the scheme not be starting earlier than 2013 if we really want to establish that we can get this money?

3.5.2 Deputy T.A. Vallois:

Acknowledging the definition provided in the Budget Statement under page 25 of the intermediary service vehicle, I was wondering whether the Assistant Minister could advise how many instances they have identified in this particular situation that requires such a clampdown. Also, in terms of providing this in legislation, what will the cost benefit analysis be in terms of how much it will cost to enforce this part of the legislation under the current number of people employed in the Tax Department enforcing tax compliance? Also, I would like to understand on page 12 of the law which states Article 77D; why is it £45,000? How did they come to that amount of £45,000, please?

The Bailiff:

Does any other Member wish to speak? Then I invite to the Assistant Minister to reply.

3.5.3 Deputy E.J. Noel:

To deal with Deputy Southern's point first, why from 2013 onwards? It is quite simple in the Companies Act. You referred to companies paying tax but under Zero/Ten companies do not pay tax. Therefore they are taxed at zero. Therefore, not to have a retrospective element to this law, the proposed changes have come into effect from the beginning of 2013. With regard to Deputy Vallois' questions, unfortunately I do not have the information in front of me with regard to why the £45,000 amount is in there. Nor do I have the information about the additional costs, if any, that will be policing this particular transaction, but Members will be aware that the Income Tax Department has, over the last couple of years, been reinforced in its compliance set-up and I am advised that there should be no additional headcount or employment issues arising from these amendments.

The Bailiff:

Will all those in favour of adopting Articles 21 to 23 kindly show? Those against? They are adopted. Do you wish to propose Part 4, Assistant Minister?

3.6 Deputy E.J. Noel:

If I may, please. Part 4 is a matter which revolves around I.T.I.S. (Income Tax Instalment System) and it relates to employer returns. It covers Articles 24 to 26 and if I may I will take these *en bloc*, if I can describe it here. These Articles enable the Comptroller to issue estimated assessments for non-compliant employers who do not withhold and submit I.T.I.S. payments to the Tax Office in accordance with their obligations. The Tax Office has a small number of employers who historically, over the last couple of years, have not been meeting their obligations. This proposal will improve the promptness with which I.T.I.S. is deducted by employers and building contractors and paid across to Treasury. Article 27 of part 4 provides that this will have effect from the year of assessment 2013 and subsequent years. I propose Part 4.

The Bailiff:

Are Articles 24 to 27 seconded? **[Seconded]** Does any Member wish to speak on any of those Articles? Will all those in favour of adopting Articles 24 to 27 kindly show? Those against? They are adopted. Do you then moved to part 5, Assistant Minister?

3.7 Deputy E.J. Noel:

Part 5 relates to insurance premiums; Articles 28 to 34, which again I would like to take *en bloc*, and applies to the withdrawal of the availability of income tax relief on premiums paid for life insurance cover and also removes the ineffective piece of legislation regarding insurance premiums that are paid by an employer on behalf of an employee. By way of background, until 2006 an individual could claim income tax relief on life insurance premiums. This income tax relief commenced to be phased out from the year of assessment, 2007. From 2007 some individuals could claim income tax relief from premiums taken out prior to 31st December 2006. This measure removes that relief from higher taxpayers. It is not available to marginal rate taxpayers. Article 35 provides that this part shall take effect from the year of assessment 2013 and ensuing years. I propose part 5.

[14:30]

The Bailiff:

Is that seconded? [**Seconded**] Does any Member wish to speak on Articles 28 to 35?

3.7.1 Deputy J.H. Young:

I thank the Assistant Minister for confirming I think this the last vestige of the 20 per cent means 20 per cent, removing the very small allowances still remaining of £1,000 from marginal taxpayers, worth £200. What I am not clear of, and I would like the Minister to explain it, is the paragraph put in its place. I found difficulty in understanding what it meant. It seems to talk about purchase life annuities and capital and so on. Perhaps he can explain it in layman's terms what we have put in place in this provision and who it applies to, because it clearly does not apply anymore to ordinary taxpayers.

The Bailiff:

Does any other Member wish to speak? Then I invite the Assistant Minister to reply.

3.7.2 Deputy E.J. Noel:

Deputy Young is correct. It is the last part of 20 Means 20. We are removing the last £1,000 worth of tax relief on life assurance premiums. The definition that he described is quite complex, and it is because life assurance premiums cover many different guises and it is to ensure that none slip through via the back door, so to speak. So, this relief has been removed from effect from the beginning of 2013. I maintain part 5.

The Bailiff:

Will those in favour of adopting Articles 28 to 35 kindly show? Those against? They are adopted. We then come to part 6, Articles 36 and 37, Minister.

3.8 Deputy E.J. Noel:

Part 6 relates to additional children's allowance. Part 6 is 2 Articles which I will take separately. Article 36 amends the principal law to ensure that a married taxpayer who is entitled to claim child allowance cannot also claim additional children's allowance. This is an amendment to ensure that the law works as intended. An error in drafting has given rise to ambiguity in the law. In short, it might be argued that married couples with children will be entitled to the additional person's allowance which is meant for single persons. The Law Officers are clear that such arguments would fail. However, the amendment as proposed puts this beyond doubt and the law will certainly be as everyone has understood it to be, in that it is for single persons and not for married couples. Article 37 provides that this part shall have effect from the year of assessment 2013 and ensuing years. I propose Part 6.

The Bailiff:

Is that seconded? [**Seconded**] Does any Member wish to speak on Articles 36 or 37?

3.8.1 Deputy T.A. Vallois:

I was wondering whether the Assistant Minister could explain page 26 of the Budget Statement. It states that: "The additional personal allowance would be changed save for in certain limited circumstances." Could he explain what the limited circumstances would be? Also, I hope that at some point this week he may be able to answer my email in which I asked him various questions on this particular area of tax law, please.

3.8.2 Deputy J.H. Young:

Could the Assistant Minister please tell us if this particular Article, Article 36, has any effect on the allowance that used to be available for free school nursery care for children under 3; the allowance of £12,000 that used to be there that I cannot see mentioned here. Could he explain whether that has any effect on that allowance, if indeed it is still there?

3.8.3 Senator S.C. Ferguson:

I am just curious about Article 37 where it talks about the Article having effect for 2011 and ensuing years. Is that not retrospective taxation? Is that really good practice?

The Bailiff:

Does anyone else wish to speak? Then I invite the Assistant Minister to reply.

3.8.4 Deputy E.J. Noel:

I am afraid that the information that Deputy Vallois has... I apologise but I do not have it to hand. I will make sure that it gets to her. As regards to her email I thought the officers were getting back to her on that, so I will chase that up for her. Deputy Young is correct. The pre-school previous allowance is completely separate to the additional person's allowance. They were completely separate allowances, so they are not the same thing at all. As regards Senator Ferguson, unless there is a typographical error in the documentation, I have this coming in effect from the year of assessment 2013, not 2011. So, I do not know if I can clarify that.

Senator S.C. Ferguson:

It would help to know. In Article 37 it says: "Years of assessment for which this part has effect. Article 36 has effect for year of assessment (a) 2011 and ensuing years for married persons."

The Bailiff:

Assistant Minister, I think the date is 2011.

Deputy E.J. Noel:

The year of assessment I have in my notes here is 2013, so it may be an error in my notes. I apologise. If it is coming in at 2011 then it is to clarify the ambiguity from that year on.

The Bailiff:

Very well. Will all those in favour of adopting Articles 36 and 37 kindly show? Those against? They are adopted. In part 7, Assistant Minister, I think you should propose Article 38 and 39 which are the substantive provisions, and then there is an amendment, I think, to Article 40 which is commencement. So, could you propose Articles 38 and 39?

3.9 Deputy E.J. Noel:

I do, Sir. Articles 38 and 39 propose an amendment to the principal law in respect to dividends paid to non-residents to ensure that such non-residents are only exempt from income tax on dividends paid out of profits taxed at zero per cent, not where profits are taxed at 10 per cent or at the secondary rate of 20 per cent. If I can put this in layman's terms for Members, if you are a non-resident and you receive a dividend from, for example, Jersey Electricity Company. That is a quoted company. You would receive a dividend. That company pays tax at 20 per cent because it is a utility, so if you were a non-resident holding shares in J.E.C. (Jersey Electricity Company) and you receive a dividend, you would not get a refund on the tax that has been paid by that company. That is what these 2 Articles are seeking to achieve. I will come to Article 40 shortly. I propose Articles 38 and 39.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on Articles 38 or 39? Very well, will all those in favour of adopting those 2 Articles kindly show? Those against? They are adopted. In relation to Article 40, I think for the sake of good order, given this changing of date, do you wish formally to just propose Article 40 and then we will take the amendment? The amendment appears to relate back to 2009 and needs to be explained. If you just formally propose Article 40 as it is.

3.10 Deputy E.J. Noel:

I formally propose Article 40 as is.

The Bailiff:

Is that seconded? **[Seconded]** Then there is an amendment, and it is very short. I think it should be read so, Greffier, would you read the second amendment lodged by the Minister?

The Greffier of the States:

On page 50, Article 40, for Article 40 substitute the following Article: "40. Years of assessment for which this part has effect. This part has effect for year of assessment 2009 and ensuing years."

The Bailiff:

Assistant Minister, do you propose the amendment?

3.11 Deputy E.J. Noel:

I do indeed, Sir. This is purely changing the effective date which was originally planned to be the date that the Budget was announced on 17th October 2012. However, it was realised that we needed to go back to the end of the year of assessment 2009 and subsequent years to make sure that those non-resident shareholders would not be able to claim back the tax from the likes of Jersey Electricity Company for the years we introduced these provisions, which affect the year of assessment 2009 going forward. So, this is to make sure that non-residents cannot make a retrospective claim for the tax that they have effectively paid via the likes of J.E.C. since 2009.

The Bailiff:

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the amendment? Will all those in favour of adopting the amendment kindly show? Those against? It is adopted. So, will all those in favour of adopting Article 40 as amended kindly show? Those against? It is adopted. Do you wish to propose Part 8, Assistant Minister?

3.12 Deputy E.J. Noel:

I do, Sir. Part 8 is a collection of miscellaneous provisions in Articles 42 to 48, and I shall just briefly describe them to Members and, if possible, take them *en bloc*. Article 41 brings into the law

a longstanding concession. It inserts a new provision to allow losses arising from non-Jersey possessions to be offset against income from other non-Jersey possessions in the same year. Article 42 brings into law the longstanding concession where dividends were exempt if paid by the Channel Island Co-operative Society Limited from income tax. Article 43 brings into law a longstanding concession. It exempts war widows and war disability pensions from income tax. Articles 44 and 45 amend the group relief rules to prevent one company offsetting profits that should be taxable at 20 per cent against losses in a company within the same group which is taxed at zero or 10 per cent. Article 46 amends the principal law to ensure that the benefit-in-kind rules cannot be abused by controlling shareholders. Article 47 amends the principal law to clarify the Comptroller's ability to apply penalty charges on non-resident landlords in cases where the income tax that should have been withheld and paid has not been. Article 48 provides that this shall have effect from the year of assessment 2013 and subsequent years. Article 49 confirms that this law may be cited as Income Tax (Amendment No. 41) (Jersey) Law 200-. I propose part 8.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on any of the Articles in part 8? Will all those in favour of adopting those Articles kindly show? Those against? They are adopted. Do you then propose the Bill in Third Reading, Assistant Minister?

3.13 Deputy E.J. Noel:

I do, Sir.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak in the Third Reading?

3.13.1 Deputy G.P. Southern:

Since we failed to have a debate on the actual Budget itself I may as well make this point now. It seems to me that all these mechanisms for closing down on avoidance indicate to me that previously there was a lot of tax being avoided, and I would like the rapporteur to remind me how much extra revenue all these mechanisms are going to sweep in. Because it seems to me it is an important change that we are making in principle as well as in practice.

3.13.2 Deputy G.C.L. Baudains:

I shudder to think how much this is costing in law drafting and, in a similar vein to Deputy Vallois when she asked a question earlier how much this is all going to cost to enforce. It does seem to me that the only winners here are going to be lawyers trying to sort out the details. My question is why was it not possible to create simpler legislation, especially when it comes to part 2? I realise that most of this is trying to sort out the legacy of Zero/Ten and the tax avoidance that has been happening under that. Finally, I think a consolidated version of the proposition might have been helpful.

[14:45]

3.13.3 Deputy T.A. Vallois:

I just want to say I am quite shocked that the Assistant Minister has not been able to answer a few of my questions I have asked today in regards to parts of the law. All I was asking for was evidence as to why we should be putting that through. I would ask that I receive that information, and if other States Members wish to receive it from the Tax Department in due course. Also the Minister has not been able to answer one of my questions earlier today as well. It does concern me that we are being asked to clamp down on tax compliance, expected to receive £7.6 million in the M.T.F.P. for tax compliance, and not be able to receive any answers as to what cost benefit analysis

has been done in terms of applying this to legislation and ensuring that we are making money rather than losing money out of changing important tax legislation for Islanders and non-Islanders as well. So, I ask the Assistant Minister to ensure that he can respond to my questions in due course.

3.13.4 Senator P.F.C. Ozouf:

The Assistant Minister will sum up but I do want to respond, as the Minister responsible, to Deputy Vallois. I would just respectfully say to her that this is a complex area and we have held briefings and we lodge legislation well in advance in order to try and deal with matters. Income Tax Law is, and the Assistant Minister, I am sure, will clarify and will say that we will do a consolidated version of the law, and that is something that the Assistant Minister and I already have. But I am not sure whether or not it would really help in explaining to Members. What we try and do in these debates is explain the major principles of why we are doing what we are doing. In relation to, for example, the £45,000 limit, that was a reasonable amount in order to ensure that the majority of people were not caught by that majority, by those provisions that we were putting forward. I am sorry if we have not done enough in terms of answering Deputy Vallois, but we do try and we will continue to endeavour to ensure that Members have full explanation of what is very technical. In years past the Comptroller used to sit next to the President here. We are here without any assistance but we have done our best to answer Members. The Deputy is shaking her head but we do our best on a complex area.

3.13.5 Senator S.C. Ferguson:

The tragedy is the fact that a simple tax, a simple approach to tax makes people much more likely to be paying it because they have no problem with something that is simple. Deputy Vallois mentioned the tax compliance of £7.6 million and I thought perhaps it might be useful for Members to point out that, in actual fact, the take on compliance is £7.6 million less something in the order of £2.635 million which has come from the increase, or the Minister's intended increase, in respect of impôt.

The Bailiff:

If I may say so, these are largely matters which should be raised when we debate the principles rather than in Third Reading. If you did you do not need to mention them again. I call upon the Assistant Minister to reply.

3.13.6 Deputy E.J. Noel:

I will take them in the order that Members spoke, and I would just like to take the opportunity to thank Members for enduring the debate on P.104 this afternoon. On Deputy Southern's point regarding the timing of this and the years and what tax has been lost, the only potential loss is for the calendar year 2012, because we lost the deemed distribution rules at the end of 2011, so all the tax that was due was captured under those rules. From the beginning of 2013 we will be capturing those profits that are distributed under these new anti-avoidance rules, so there is only effectively one calendar year that Islanders have had an opportunity to defer paying tax. They certainly will not avoid it because eventually they will take money out of their companies. I hope that clarifies the position for Deputy Southern. With regard to Deputy Baudains, I am advised that these measures can be absorbed within the existing headcount of the tax officers and therefore there will be no additional cost of implementing these changes to the taxpayer, but it will ensure we will collect all the tax that is due. For Deputy Vallois again, I offer my personal apologies as well as those on behalf of the department. We will get the information that she requires on the quite narrow aspect of the amendment she was asking about. There is a broad spectrum of amendments within this proposition, and Deputy Vallois was asking questions on a very narrow topic, but we will get the answers to her. To come back to Deputy Baudains, to confirm what the Minister for Treasury and Resources has already said, we will produce a consolidation of the law and make that

available to Members. I have no matters to raise in response to Senator Ferguson other than that is what the tax officers managed to achieve in the last few years in terms of additional compliance without tax legislation. They have managed to raise over £2.4 million in additional revenues from individuals that were not declaring the full amounts they should be, and that is based on a small increase in headcount that was agreed some 2 years ago. So, with that in mind, I again thank Members and I maintain the proposition.

Deputy G.P. Southern:

I am afraid the Assistant Minister has not answered my question. I may have phrased it badly. Can I have another try, Sir? The question would be how much extra are we going to get in through these measures? For example, is the Assistant Minister telling me that people have not taken company loans and avoided tax that way for the past millennia in Jersey and now that they cannot, what additional revenue will be brought in from that?

Deputy E.J. Noel:

I cannot give the precise figure or even a guesstimate for Deputy Southern because we do not know the extent of how many people have utilised, for example, investment holding companies where they let the dividends roll-up within those companies. The additional amount of tax that we will collect is dependent on how people need to access those funds that they have in their companies. What this is doing is to ensure that we will maintain current levels of tax take and yes, hopefully we might get a little bit extra as well.

The Bailiff:

Very well. All those in favour of adopting the Bill in Third Reading, kindly show? Those against? The Bill is adopted in Third Reading. Then again I understand, Minister, that you wish the States to consider an Act to bring it into effect immediately?

3.14 Senator P.F.C. Ozouf:

Yes, please, Sir. In practice, the legislation now having been passed, I am not sure whether Members have the Act declaring it. If the Greffier will read it.

The Bailiff:

Very well. I will ask the Greffier to read out the Act.

The Deputy Greffier of the States:

Act declaring that the Income Tax (Amendment No. 41) (Jersey) Law shall have immediate effect. The States, in pursuance of Article 19 of the Public Finances (Jersey) Law 2005, have made the following Act.

Senator P.F.C. Ozouf:

As the Greffier has explained, bringing it into force immediately. I move the Act.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on the Act? All those in favour of adopting the Act, kindly show? The appel is called for then in relation to the Act. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 43		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				

Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

4. Draft Goods and Services Tax (Amendment No. 4) (Jersey) Law 201- (P.105/2012)

The Bailiff:

Then we come to the final piece of legislation relating to the Budget and that is the Draft Goods and Services Tax (Amendment No. 4) (Jersey) Law, Projet 105/2012, lodged by the Minister for Treasury and Resources. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Goods and Services Tax (Amendment No. 4) (Jersey) Law. A law to amend further the Goods and Services Tax (Jersey) Law 2007.

4.1 Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

As I explained - well it seems like quite a while ago - we are not proposing any major changes in G.S.T. but there are 2 minor administrative changes to deal with, the relief for bad debts being clarified in order to ensure that current practice is enshrined in the law and secondly, issues in relation to share transfer of domestic property that had been brought into line with other property sales. I move the principles.

The Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Very well, all those in favour of adopting the principles, kindly show? Those against? They are adopted. Do you wish to propose Articles 1 to 4, Minister?

4.2 Senator P.F.C. Ozouf:

Yes, I will propose them *en bloc*. Article 1 is just simply saying it is amending the principal law. Article 2 clarifies the law in relation to double tax relief for G.S.T. when invoices are not paid. Article 3 is in relation to the issue of share transfer properties, making them zero rather than exempt. This is currently causing, potentially, an administrative difficulty for those share transfers with mixed share transfers and other transactions. The administration burden is primarily for property developers and the Tax Office. Making it zero as opposed to exempt does not make any difference in terms of the tax. It is a clarification of that and Article 4 is that the Article shall have effect from 1st January 2013. I move Articles 1 to 4.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on the individual Articles? Very well, all those in favour of adopting Articles 1 to 4, kindly show? Those against? They are adopted. Do you propose the Bill in Third Reading, Minister?

Senator P.F.C. Ozouf:

I do so, Sir.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading, kindly show? Those against? The Bill is adopted in Third Reading. So I think that concludes the legislation in the ...

4.3 Senator P.F.C. Ozouf:

The Acte Operatoire for the final ...

The Bailiff:

The Acte Operatoire, thank you very much, yes. I will ask the Greffier to read the Acte Operatoire in relation to the Goods and Services Tax Law.

The Deputy Greffier of the States:

Draft Act declaring that the Goods and Services Tax (Amendment No. 4) (Jersey) Law shall have immediate effect. The States, in pursuance of Article 19 of the Public Finances (Jersey) Law 2005, have made the following Act.

Senator P.F.C. Ozouf:

I move the Act.

The Bailiff:

Is the Act seconded? **[Seconded]** Does any Member wish to speak on the Act?

4.3.1 Senator I.J. Gorst:

If I may just use this opportunity to thank the Minister for Treasury and Resources and the Assistant Minister for Treasury and Resources and their officers for all their hard work that they have put in in producing this Budget. I think it is a mark of the way that they have worked in a co-operative fashion in that there have been very few amendments and those amendments have really been around, while important, small detail. Some have carried the day and others have not but I want to thank them. They have had a very heavy workload this year in bringing forward their Medium-Term Financial Plan and now in dealing with taxes which are going to give effect to those spending plans. It does not surprise me that the Medium-Term Financial Plan gives effect to the Strategic Plan and we see again today or tomorrow, and I might be speaking out of turn, that the concerns raised once more by the general public are indeed being met by the priorities of the Strategic Plan and are being given effect to with regard to spending by the Treasury Department. So I think we can look back on the work that Treasury have undertaken on our behalf. They often use the phrase that they are servants of this Assembly and I do not think that is overstating the mark. I think they have worked incredibly hard on our behalf. I am grateful to them and I believe that this Assembly is as well and I believe that we are on track to meet those strategic priorities and to fund those strategic priorities and to deliver on behalf of the community. **[Approbation]**

The Bailiff:

Does any other Member wish to speak on the Act? Very well, all those in favour of adopting the Act, kindly show? Those against? The Act is adopted. Also I can just inform Members that I think they have had a new Summary Table E circulated to them which reflects the changes made by the amendments that have been passed.

4.3.2 Senator P.F.C. Ozouf:

Yes, these are the requirements under the new Law. Effectively, the spending limits which we have already agreed thankfully could not be amended but effectively that is the consolidated and can I just very briefly say I am grateful for Members' perseverance and for their help in taking through this Budget. I am grateful to the Chief Minister but can I express my own personal thanks to my Assistant Minister. This is a double act, as Members will have seen, and I would hope that is an effective one but I do wish to just thank the Treasury, the Tax Policy Unit, the Taxes Office, the Law Draftsmen, Law Officers and the Greffe for all the work that they do to bring what has been the end of a very long journey, the Medium-Term Financial Plan and Budget, and I thank Members. **[Approbation]**

[15:00]

The Bailiff:

One other matter has been presented: Review of the Medium-Term Financial Plan, response to the Minister for Treasury and Resources to the Scrutiny Report presented by the Minister. Very well.

5. Old Age Pension: increase for 2012 (P.97/2012) - as amended

The Bailiff:

So we now move to the rest of Public Business. First the Old Age Pension: increase for 2012, Projet 97/2012 lodged by Deputy Southern. I will ask the Greffier to read the proposition. This is one, Deputy, which you have amended yourself. Are you happy to take it as amended? Yes, so Greffier, perhaps you would read the proposition as amended.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion (a) to agree that the 2012 annual increase in the old age pension in Jersey should be increased by a further 1.4 per cent to match the R.P.I. (Pensioners) figure for June 2012; and (b) to request the Minister for Social Security to bring forward for approval at the earliest possible opportunity the necessary amendments to legislation to give effect to the proposal, together with a matching rise in the disregard in respect of pension income available to income support claimants.

The Bailiff:

I think as a matter of technicality, the words “in Jersey”, Greffier, are removed as well by the amendment so I think it should just read “Old age pension should be increased.”

The Connétable of St. John:

Can I declare an interest, being an old age pensioner?

Deputy G.C.L. Baudains:

Likewise; it is time for the old fogies to depart.

The Bailiff:

This is sensible to declare it but you do not have to retire.

The Connétable of St. Clement:

I know many will be surprised but I am also in receipt of a pension. [Laughter]

Deputy M. Tadier:

Can I ask that they stay in on the left so we do not become inquorate.

Senator P.F. Routier:

Even more people will be surprised as I qualify as well now.

The Bailiff:

Very well. I am sure probably the Greffier has a record of all those who are over the critical age. Yes, Deputy Southern.

5.1 Deputy G.P. Southern:

I apologise to Members for bringing 3 items. The next 3 items are mine but I hope that this one should be relatively brief. I think we can achieve consensus fairly quickly on this one and it derives basically out of the previous proposition brought by Senator Breckon which tried to enforce the triple lock on pension and it arises because uniquely, I think, in the history of the records, for 3 years on the run, we have had average earnings running below R.P.I. with the result that pensions which are uprated by the average earnings have fallen at least some 5.5 per cent behind the R.P.I. causing, I believe, a degree of suffering among pensioners. This particular proposition sets out to restore the last rise in 2012 from 1.5 to 2.9 per cent, which was the R.P.I. for pensioners in the appropriate month. I am glad to see in the comments of the Minister that he says: “The Minister for Social Security supports the principle of this proposition” and I hope shortly he will support the body of this proposition on the very clear understanding that the Regulations that will be drawn up to provide the additional increase in 2013 will also include a new method for operating old age pensions. Now, I have taken a look at his new method and I find no objection in that. It seems to me that it is all well and good. My proposition says we should increase the rise in pensions last year by a further 1.4 per cent and that is exactly what the Minister is proposing. It says this should be done at the earliest possible opportunity and the Minister for Social Security has said the earliest possible opportunity to make sure everything is right and we get all the i’s dotted and the t’s

crossed - and I got that right for once - would be probably by April and that is the reality of how long it will take. With the Minister's support, I will tentatively leave it there just to say that the total cost of this for one year is around £2 million. I agree with the Minister for Social Security on that. If Members turn to P.97, there are 2 graphs there showing the state of the fund from which pensions come and one can see that it is very susceptible to the rate of return and a rate of return of 4 per cent makes it viable right down until almost 2059 so it is in a healthy state. The rates of return are on page 6 currently, I have not got the latest ones, and they are quite healthy so the fund can take it. The amount that is coming out can be borne by that fund and I believe this is entirely the right thing to be doing for our pensioners at this stage and I would expect, I think, Members to be supportive of this proposition. I can see no reason why anybody should want not to give an additional rise to pensioners in these particular circumstances where I believe pensioners are suffering quite substantially and on that point, I think, I will leave it.

The Bailiff:

Is the proposition seconded? [**Seconded**]

5.1.1 Senator F. du H. Le Gresley:

I think it is appropriate that I speak next because I absolutely agree with Deputy Southern that we can achieve consensus fairly quickly and perhaps move on to other items on the agenda. However, I do have a speech and I am not going to miss this opportunity to give the speech. It is particularly important that I do so because, clearly, there have been a lot of comments issued in response to Deputy Southern's first proposition and then his amended one and also a press release that was issued by myself so just for the record, if you will allow me, I do feel I need to just run through these procedures. Deputy Southern's original proposition was, in my view, unworkable and my first written comment explained that it would be very difficult and possibly counterproductive to seek to provide a pension uprate that was only paid to pensioners currently living in Jersey. The Social Security old age pension is included in reciprocal agreements with many other countries. These reciprocal agreements allow people living in Jersey to receive the full value of pensions and other benefits paid by other governments as well as allowing people living outside Jersey to receive a Jersey pension. It would be very complicated and time-consuming to negotiate changes to these agreements. Withdrawing unilaterally from reciprocal agreements would be a major step and could ultimately result in the loss of pensions and benefits from other countries which are currently being paid to pensioners living in Jersey. Consequently, I am pleased that Deputy Southern has understood the negative consequences of his original proposition and has put forward an amendment to allow the proposed 1.4 per cent increase in pension to be applied to all claimants. This means that any increase that is agreed in the Jersey rate of old age pension will be paid to everyone who has contributed to the Jersey Social Security Fund and is now eligible to receive a pension. My first written comment dated 7th November also explained that steps were already being taken to address the problems currently faced by pensioners. So to briefly recap, in August when the current pension rate was set, Senator Le Marquand, in his capacity as Deputy Chief Minister, gave a press briefing while both the Chief Minister and I were out of the Island. Senator Le Marquand confirmed that as a matter of priority, Ministers would be considering the increase in the pension rate and looking to identify a more sustainable long-term solution. On 25th September, I responded to an oral question from Deputy Rondel confirming that options to provide further financial assistance to pensioners were being actively pursued and that these would be presented to the Chief Minister and Minister for Treasury and Resources at a meeting scheduled for 30th October. On 8th November, I issued a press release setting out the basic principles of a new uprating method to be introduced in 2013 which would be combined with an immediate increase in the pension rate. A copy of the press release has been included with my second written comment on P.97. In summary, before this proposition was lodged, I had already made a firm commitment

to review the support available to pensioners. I fully appreciate the difficult position that many local pensioners find themselves in during this protracted recession. At the same time, as the Minister responsible for the Social Security Fund, I must ensure that any increase in the pension rate can be afforded by the current generation of workers who are meeting the costs of these pensions. Members are well aware of the pressures on the fund. We already know that we will need to increase contributions over the next few years as the number of pensioners increases, even with the pension being paid at the current rate. It is a great shame that Deputy Southern did not discuss his ideas with me or my officers before lodging either his proposition or his amendment. At the end of the day, we are both trying to achieve the same goal, to protect pensioners without placing an undue burden on the current generation of workers. Unfortunately, progress on the new uprating method, which will protect pensioners in every future year, has inevitably been delayed while I have worked with officers to prepare responses to this proposition. However, regardless of how we got here, the situation today is that I am prepared to support the principle of the proposition as amended. This support is given on the very clear understanding that when I return to the Assembly in the new year, it will be with Regulations that set out a new method for uprating the old age pension and that these Regulations will also include an increase in the value of the old age pension in line with Deputy Southern's request. P.97 proposes an extra increase in the pension rate of 1.4 per cent. This will cost an additional £2 million a year. The cost will be met by the fund in 2013 and then again in every future year. For example, by 2033, the cost of Deputy Southern's proposal will be well in excess of £40 million at today's prices. I would be failing in my duty as Minister for Social Security if I agree to this increase without considering its long-term consequences. However, the increase is affordable if it is linked to my proposed new uprating method. In general terms, the new uprating method will ensure that the increase in the pension each year will at least match the growth in the Retail Price Index for pensioners during that year. At the same time, over the long term, the growth in the value of the pension will track the long-term growth in the savings index. The combination of these 2 rules will ensure that the value of the old age pension will always at least match the rise in prices for that year but that the long-term cost of that protection does not place an unsustainable strain on the Social Security Fund. Unlike Deputy Southern's proposition, this proposal will give pensioners a guarantee that they will never again see the value of their pension fall against local prices. At the end of my second written comment, I gave a worked example, which shows how the new uprating method will operate. The new uprating method will start with the 2012 rate and adjustment to the pension rate will be included to take effect as soon as the new uprating method is agreed and this is planned for early 2013. In addition, the requirement implicit in Deputy Southern's proposition is to reflect the value of the pension since October 2012 and this will require a backdated amount to be paid as a lump sum. As explained in the written comment, the backdating process will need to be based on simple eligibility rules. Even then, additional law drafting and a great deal of operational planning and testing will be needed to ensure that 28,000 separate payments are made correctly and without incurring substantial administrative costs.

[15:15]

In August 2013, the Average Earnings Index for 2013 and the R.P.I. (Pensioner) for June 2013 will also be available and these values will be used to uprate the old age pension rate again in 2013. To sum up, I am prepared to accept the current proposition on the clear understanding that when I return with Regulations at the beginning of 2013, the Regulations will cover these 3 changes to the Social Security Law: (1) replace the existing uprating method set out in the Social Security Law; (2) set the first rate under the new uprating method at 1.4 per cent using the increase in the R.P.I. (Pensioner) index as at June 2012. This would give a new full rate of £189.84 per week. Thirdly, creating a new benefit to make a single backdated payment in respect of the increased value of the pension since October 2012. This will be based on a maximum increase of £2.59 per week. So if

Deputy Southern is prepared to respond to my speech to endorse the way forward that I have just proposed to achieve the intent of his proposition, then I would suggest to Members that this proposition could be voted on without further debate.

The Bailiff:

Does any other Member wish to speak? Does anyone dare to speak? **[Laughter]**

5.1.2 Deputy M. Tadier:

This is on the amendment, is it, or it has been taken as amended, I know. I just wanted to first of all note obviously there has been some good work that has been going on in the background between the Back-Bench Deputy and the Minister to achieve what I think most of us have wanted to achieve, which is to safeguard and insulate our pensioners who have contributed throughout their whole lives from the vagaries of inflation which are not within their or our control. I think it just goes to show that the St. Helier Deputy is well worth his pay increase which I think he has earned and he would be a complete hypocrite if, while fighting for a cost of living adjustment for those many pensioners, some of whom are his constituents, some of whom are not, if he did not take his pay increase.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon Deputy Southern to reply.

5.1.3 Deputy G.P. Southern:

Obviously, I think I expressed in my opening speech that I am entirely at one with the Minister for Social Security as to the way forward and thoroughly commend him and his officers for the work they are doing and the time scale in which they are doing it looks appropriate and entirely a good thing. I would like to also thank Deputy Tadier for his kind words and if only L'Oréal made some men's perfumes. I maintain the proposition and call for the appel, please.

The Bailiff:

The appel is called for, then, in relation to the proposition.

Deputy J.H. Young:

Could I declare an interest? I was in the tea room before. I receive a pension.

Senator B.I. Le Marquand:

I also should have declared my wife's interest.

Senator L.J. Farnham:

Quite clearly, we need to raise the pension age as soon as possible. **[Laughter]**

The Bailiff:

The appel is called for. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 36	CONTRE: 1	ABSTAIN: 0
Senator P.F. Routier	Deputy A.K.F. Green (H)	
Senator P.F.C. Ozouf		
Senator A. Breckon		
Senator S.C. Ferguson		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Senator I.J. Gorst		

Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.J. Rondel (H)				

Deputy A.K.F. Green:

I pressed the wrong button, Sir.

The Bailiff:

We take it from that that it is Deputy Green, do we? **[Laughter]**

6. Draft Social Security (Amendment of Law No. 4) (Jersey) Regulations 201- (P.101/2012)

The Bailiff:

We come now to the Draft Social Security (Amendment of Law No. 4) (Jersey) Regulations 201-, Projet 101/2012 lodged by the Minister for Social Security and I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Social Security (Amendment of Law No. 4) (Jersey) Regulations 201-. The States, in pursuance of Articles 50 and 51 of the Social Security (Jersey) Law 1974, have made the following Regulations.

6.1 Senator F. du H. Le Gresley (The Minister for Social Security):

Shortly after I was elected Minister, I had the pleasure of bringing Regulations for approval by this Assembly to set up a new benefit, Cold Weather Bonus, to assist a group of pensioners who do not qualify for income support and who do not pay income tax. In the last Assembly, I had

successfully brought a proposition as a Back-Bencher to provide cold weather payments to this group of potentially vulnerable pensioners and I am delighted that this winter, we will be able to provide them with some financial assistance for the rising costs of fuel bills. As Minister for Social Security, it is easy to make popular decisions such as introducing or increasing benefits but it is much harder to propose restricting or removing entitlements. The generosity of universal non-means tested benefits is an issue that many governments are having to tackle and today in this Assembly we too have to make a difficult decision about the qualifying rules for Survivor's Benefits, which were first established back in 1974. The Regulations that we are debating today are the direct consequence of 2 previous States decisions. Last year while I was a Back-Bencher, I lodged a proposition seeking to reduce the expenditure on Survivor's Benefits. I was pleased when my proposition was approved by 32 votes to 4. However, having become Minister for Social Security, I consider that I have a very clear mandate from the States to bring forward proposals to limit the generosity of Survivor's Benefits. The second decision was taken just under a month ago when we debated the Medium-Term Financial Plan and set 3-year cash limits for each States department. For Social Security, the 2013 cash limit incorporated a saving of £2.8 million made up of £600,000 in respect of changes to Income Support and £2.2 million to be achieved by moving the budget for Invalid Care Allowance from a tax-funded budget to the Social Security Fund. I fully appreciate, and I am looking at the Deputy of St. Ouen when I say this, that transferring a cost from one area of public expenditure to another does not represent a real saving. However, if this transfer is co-ordinated with savings to be made from the Social Security Fund, then the net effect is to create the reduction in total public spending that is required. My proposition last year on survivors explicitly required the protection of existing claimants. This means that the savings in respect of the Survivor's Pension will build up gradually as existing survivors each reach their own pension age and move to receiving an old age pension. In the long term, the net saving in survivor pensioners' costs is estimated at £3.6 million a year compared to the £2.2 million target required through the 2013 C.S.R. target. I have circulated to Members information on the existing benefits and the proposed changes, together with a copy of the Social Security Law showing the proposed amendments and although he is not in the House, I hope that the mail has reached the Constable of St. John as he requested this information by mail. I would like to thank the Members who attended the States briefing session held last week. However, for the benefit of Members who could not attend, I will outline the 2 benefits and explain the changes that are proposed. Survivor's Benefits are currently available to working age survivors following the death of their spouse or civil partner. The value of the benefit is calculated using the contribution record of the deceased partner. Benefits can be paid anywhere in the world and continue until the survivor reaches their own pension age. The benefits are not means tested and the survivor is free to take up employment. The benefit only stops if the survivor remarries or enters into a new long-term relationship. For the first year after death, a survivor's allowance is paid at a rate of 20 per cent above the normal pension rate. At the end of the first year, the survivor moves to a Survivor's Pension, which is paid until the survivor reaches his or her own pension age. The proposal before Members today is that all survivors will continue to receive a Survivor's Allowance for the first 12 months. After that, a surviving pension would only be paid if the survivor has a dependent child, which includes a student in full-time education up to the age of 25. Information taken from actual claims in April 2012 suggests that approximately 9 per cent of survivors have a dependent child as described in these Regulations and it is this reduction to 9 per cent of the current volume of claims that will create the saving. However, removing the benefit will have an impact on low income households and there will be an increase in the cost of income support following the reduction in the number of people receiving a Survivor's Pension. The calculations set out in the written report on pages 4 to 6 indicate that approximately 7 per cent of the cost of Survivor's Pensions will be needed to be replaced by additional income support costs, a gradual increase in costs rising to £312,000 per annum. Note that this will only affect single people. Parents with children will still receive a

Survivor's Pension as they do now. As these numbers show, considerable savings will be achieved by restricting the Survivor's Pension in this way. When I was doing the research for my proposition last year, it became clear that the original 1974 Widow's Benefit had been extended several times to create the current very generous benefit. I cannot justify the use of the Social Security Fund to make long-term non-means tested payments to widows and widowers who do not have young children and are free to take up employment in the same way as any other single person. As mentioned above, I do not wish to remove this benefit from survivors who are currently receiving it. The changes will only affect individuals who become survivors after the law is in place. There is a cost to this and the details are shown on page 7 of the written report. In addition to this protection, I have also submitted an amendment to my original proposition to allow Survivor's Pensions to remain available to individuals who are at least 57 years of age at the end of 2012. There are also 2 additional amendments proposing alternative age limits of 55 and 50. Depending on the age chosen, this will increase the cost of the transitional protection but it will not affect the long-term annual savings to be achieved for the fund. At this point, I would like to mention the report, R.142, presented by the Social Security Advisory Council. I believe that this is the first time that this Council has been asked to submit a formal report on a proposed change to the Social Security Law. The Council supported the move to reduce the generosity of Survivor's Benefits and, in fact, recommended more sweeping cuts than those that I have put forward.

[15:30]

I am very grateful to the Council for their report and I look forward to working with them again on future changes to Social Security legislation. Turning now to the second major change and this is to replace the existing Invalid Care Allowance which is a tax-funded benefit with a new benefit called Home Carer's Allowance that will be paid from the Social Security Fund. At the moment, Invalid Care Allowance is the tax-funded benefit paid in Jersey at a standard rate to working age carers who spend at least 35 hours per week caring for a person with severe disabilities. The value of the benefit is already linked to the standard rate of social security benefit. Moving this benefit into the Social Security Fund confirms the importance of unpaid carers in our society and ensures that this benefit will continue to be funded in the future. Unlike the changes to Survivor's Benefit, the changes to Invalid Care Allowance are not designed to reduce the cost of the benefit. All existing claimants, and I think there are 186 of them, will be automatically transferred to the new benefit which will be paid at the same rate as the existing benefit. There will be some changes to eligibility conditions for future claimants. The current income bar of £62,382 per annum will be removed. However, claimants will need to satisfy a simple contribution requirement as the benefit is designed to support working age individuals who are not able to work because of their caring responsibilities. The contribution test will not be applied to married women who continue to hold a red card due to the married women's election and do not make contributions in their own right. With the change in funding, we have taken the opportunity to make some minor adjustments to the benefit. For example, in future, the carer will still receive the benefit for up to 4 weeks each year while the cared for person is receiving respite care. The cared for person will need to satisfy a residency test that they have been living in Jersey for 12 months before the claim for benefit is made. There is no such test at the moment. Appeals in respect of medical issues or queries regarding the extent of the caring duties undertaken by the carer and the care needs of the cared for person will be dealt with by a Specialist Medical Appeal Tribunal rather than the more general Social Security Tribunal. In addition to the Regulations set out today, more detailed aspects of the benefit will be provided for in Ministerial orders. These will closely follow the existing legislation. At the same time as making the major changes that I have just described, we have taken the opportunity to propose some small amendments to 2 other benefits. The Insolvency Benefit came into force last weekend. This benefit provides financial assistance to employees who have lost their job following the insolvency of their employer. A benefit of up to £10,000 can be paid, depending

on the amount of money owing to the employee. Some minor changes are made to clarify the law and improve the claims process. Secondly, the Adoptive Parent Grant provides a one-off payment to parents who adopt a child and it is paid at the same rate as the Maternity Grant. The proposal is to tighten up the existing rules to prevent a step-parent from being able to claim an adoption grant following the adoption of their own stepchild. I appreciate that I have covered a lot of ground in this speech. I am happy to answer questions at this stage but I can confirm that I will also be explaining the Regulations in some detail as we go through them. To sum up, as I started, the remit of Social Security sometimes requires difficult decisions to be made. The Social Security Fund is made up of the contributions of employers and employees and I am responsible for making sure that the benefits paid out of the fund are affordable and appropriate. Benefit rules will change from time to time. Just this very afternoon, we agreed to make a change to the way in which old age pensions are calculated. These necessary changes to Survivor's Pension means that we can safeguard financial support for carers and to help protect the long-term viability of the Social Security Fund for our old age pensioners. I propose the principle of these Regulations and seek the support of Members.

The Bailiff:

Are the principles seconded? [**Seconded**]

The Deputy of Trinity:

I would just like to mention that I do receive a Survivor's Pension but I understand that will not affect me.

The Bailiff:

Very well. Does any Member wish to speak on the principles?

6.1.1 Deputy M. Tadier:

Just really a question. I notice the Minister said that under the new Regulations, those who are not living in Jersey would have to come back and live here for a year before being able to claim income support. Is that correct? On that basis, my question is it seems to me you can leave the Island when you are 65 so you can work from the age of 15 to 65 in Jersey and then you can go to Spain for 5 years, for example, live down there either in rented accommodation or in your second home which probably would not be a second home as you would not necessarily qualify for income support unless you kept that quiet. Then you would come back to Jersey and you would not be entitled to a penny, that is what we are saying, whereas somebody who has not contributed into the pot at all because they have been long-term unemployed, possibly through no fault of their own, as long as they have been in Jersey for the last 6 months, would be able to obtain benefits. My question is, is that the case and is that fair?

6.1.2 Deputy G.P. Southern:

I think today is a sad day because here we are, I know it is recessionary times, but effectively what we are doing today is deciding how to prioritise and how to save money on benefits which must affect the most vulnerable in our society. Today's motivation is just that. It is about making changes to the Social Security Fund to make a little bit of room to move another benefit, change its name, then another benefit out of general taxation and into Social Security payments. Fundamentally, it is about the move from general taxation, a saving on benefits, and let us see if we can squeeze it into Social Security. Oh, yes, we can because we will limit this particular benefit, the Survivor's Benefit. Later on in the year, next year probably, we are going to be discussing even more harsh cuts because I am not sure there is a great deal of manoeuvre room apart from direct benefit cuts and the Minister for Social Security is committed to a further £3 million of cuts. So I think it is a sad day that here we are discussing the ways in which ... this is the soft way, this is a

prioritised way. The Minister has looked at which benefits might be simplest and most appropriate to cut but nonetheless, it is a cut. The harder decisions will come later on next year but we will be meeting them again and I think it is a sad day when we are not looking after, as appropriately as we might, those on benefit, those most vulnerable in our society. Having said that, I will save my fire until we come to my amendment.

6.1.3 Deputy R.G. Le Hérisier:

I take a slightly different approach from Deputy Southern because I think Ministers implicitly are always working out priorities and when they are doing that, they are hurting some people perhaps, certainly financially, and others they are enhancing. I think much of this debate will turn upon the amendments, the 55 and the 57. Although they look quite innocuous in terms of only a couple of years' separation, for example, each of those amendments has enormous implications. Unlike Deputy Southern, sadly I think the world does move on. You cannot freeze welfare states in aspic because when you are doing that, you are implicitly disadvantaging some people. This - certainly the Survivor's Benefit - was based upon the notion of women who were widowed playing a particular historical role where they were not apparently intended to enter the workforce, for example. It was based upon social assumptions that are no longer in place today. It is a different world and this notion that you freeze a welfare state in aspic I find hard to deal with. Aside from the fact that a lot of the recipients appear to live overseas, and the kind of way in which that is managed also probably needs a review, no doubt the Minister will address that issue as well and perhaps he could tell us what kind of steps are in place to deal with that. So to that extent, it is a sad day but I think there is inevitability about it and I am certainly prepared to accept the principle, albeit I will wait for the debate on 55, 57, et cetera.

6.1.4 The Deputy of St. Ouen:

Fortunately I have not had the experience of losing my partner but I am certain of one thing. It must be and is a traumatic event and I am surprised that part of the proposal is that for many people in the future, it is just brushed aside and forgotten about after one year. I think a lot of partners obviously if they are living together, they will probably have commitments that together they met. Suddenly that disappears and I just worry that the proposal that we are going to be looking at today, albeit that they seek to provide for people that we are currently aware of, does not deal with the key issue of what happens when those that are 57 or 50 or whatever get to a certain age. In other words, those that we have tried to protect have passed through the system and it just leaves those that are not. There is an issue here which I do not think necessarily this solves. I think quite rightly it has been pointed out that this is generally a money-saving idea and it is sad in some respects that we seem to focus on this group of people to save money. That is all I would like to say at the moment but I will listen intently to the amendments and the discussion that follows.

6.1.5 Deputy J.H. Young:

I think the Minister for Social Security has summed up for us very well and very fairly the nature of the proposal that he is putting before us. I have very strong concerns about the proposal to remove Survivor's Pension. I am very grateful, as all our Islanders will be, that there is no proposal to change Survivor's Benefits for one year but the problems do not go away after a year. The Minister's report gives us a good history of how this structure of benefits came about. Originally in 1974, it was produced; extended in 1991 to survivors of all ages - and I think that is important; and it was reviewed in 1995 and put into its current form in 1996. The review done there was to ensure that there was equal treatment for widowers and widows. So that correction was made then and on the numbers in the Minister's report, currently 821 Survivor's Pensions are now being paid.

[15:45]

In reading the report and listening to the Minister, I give credit for the good intentions to protect those who are already existing, already having those pensions in payment. For me, there is no logical difference between a commitment to protect those in payment and those in the pipeline, as it were, in the upper years of their working lives or otherwise where people approaching retirement have made whole life decisions as married couples or partners throughout their lives, safe in the knowledge that the pension payments that the working partner or both of them were making would provide a base of benefit if the dreadful thing happened and one of them was to be bereaved before reaching pension age. To me, what that does, what the proposal we have got there is the worst of all worlds. It seems to introduce a bar on those survivors based ... it protects those with children - first-class of course. It has got to, but why no others? Why exclude others? It is effectively an age bar in disguise, I think. So the principle of surely pension funds is that both men and women, because we are dealing with a law that only currently deals with married couples and I think civil partners if I may be corrected, are in there as well can benefit from contributions paid by their late spouse. I think that is a fundamental principle of nearly all occupational pension schemes, including the States employees - the Public Employees Contributory Retirement Scheme - where we have all the States employees, all the admitted organisations for many thousands of our favoured staff and, of course, it is right that that scheme provides for them benefits of death grants on death of a member, sometimes backed by life insurance, often backed by life insurance in the case of commercial schemes, and in the case of the public employees, a pension benefit based on 50 per cent of members' pension had they survived to reach retirement age. So I think those are the sorts of issues that people that value pension funds look at. They look at life expectancy, mortality rates, survival rates. They also have a meet and drink to look at long-term liabilities and what I was really surprised about is that such a proposal is here and yet I could not see evidence of actuarial review which would have said what is the value of all these benefits, what is the value of these long-term liabilities? We have had to do that already for the changes in the fund to do with the introduction of residential care provisions. Why do we not have it here? Why are we not presented with a choice? If there is that shortfall for these benefits, let us see about it. Let us see about the contribution rates. Now, there are clearly other defects in the current benefits, for example, the rates and the payment at the moment is paid at 20 per cent over the pension that would have been paid to the survivor and that was recognised in 1995 as being a hangover from the U.K. and should have been got rid of. It was not. It is still there. It is not proposed to get rid of it. There is the issue too of how we deal with those pensions being paid to people who have chosen... fully understandable... the loss of a loved one moved away to a different community and start new lives, how we then follow up to make sure the provision on remarriage ... the cancellation on remarriage of that benefit is effective. So there are those issues but what we have then got is basically I think a proposal just to save money without these elements, without these reforms, and I think what we have got is a ... it says it is old-fashioned. Well, yes it is, because it reflects a role of men and women in society, which has long gone. It might even be seen as parochial. Does that mean to say it is bad? Does that mean to say we should just throw it away? Surely if it reflects time gone by, it is a retrograde move and we should not lightly set it aside. So I am happy with the change. I am very pleased that the Minister ... when he published this, I was able to speak to him and to talk to him about the particular effect on those at the margin because I think the worst affected will be those who are closer towards retirement age and I was shocked when the figures showed me statistically that it is principally a cut that will affect women because women statistically face a 4 to one chance of being bereaved relative to men. So this is, I think, a highly scary situation and I think we should be very, very careful and only on the fullest assessment and with the fullest of advice. I read the advisory report with interest. I have to say I am sure it was ... I do not know how much time they had to look at it but again I did not see any actuarial figures in it to justify but, of course, they were proposing much more sweeping changes which I find probably even more surprising but clearly the Minister has set those aside. So I am not inclined to agree with the

principle of the elements in these changes for withdrawal of Survivor's Pension. I think there are revisions to be done but I do not think the formula we have got is the right one and so when I come to amendment, if this proposal is approved, and we go on to amendment, I shall deal with the issue of the particular age group later.

6.1.6 Deputy J.A. Martin:

Yes, I will be brief, because I had a very nice discussion with the Law Officer and the Minister and the Assistant Minister, because I tried to amend this Survivor's Benefit. Because we were all talking, and Deputy Young mentioned this, we have practically about 40 per cent of the population who do not get married now, and they are not entitled to anything. We are making a saving on one hand, but: "You are a better man than me, Gunga Din," as they would say, because I could not get around it and I could not understand it. The Law Officer could not particularly understand. We went all the way down to if they were not married. But still reading it, I do say that it is an old benefit and I can see where this was coming from in those days but it does not help nowadays. My other bugbear is the percentage of people off-Island - and I know the Minister agrees, he is nodding - and a starter for 10, he is doing really well, but off-Island, nobody is really checking on these people, if they are cohabitating or married again, and we are paying them thousands and thousands. Just because you have partners who do live together, have a commitment, renting or buying, but they have not signed the civil partnership or the marriage certificate, they get nothing. So I, after a very long discussion, said I will leave it for now, because it got so complicated, but when I think it through logically, I think it can be done. The Minister has promised me that it will be done, looking into these things. He will remind me in his summing up; there is some other law coming in later that could encompass where the partners are not married. But what really persuaded me was that the Law Officer had explained to me that it was a non means-tested benefit. It is non-means tested if you do not have income support, so you can be earning as much as you like, or receiving as much as you like, and still get this. If you are in need of income support or what you are entitled to, and this will be shaved off the bottom or the top and you would only get the make-up. So what the Minister was saying to me was that the people you are trying to ... Deputy Southern is shaking his head, but it is correct. I was very surprised at that, because you can have as much as you want and you will get it, and you can be earning 3 jobs and you will get it, but if you are on income support; it is fair enough, I mean, it is means-tested in that way. So it is, starter for 10, 5; there is a lot more work to be done and I look forward to somebody sorting out if we can understand. We got down to D.N.A. (deoxyribonucleic acid) testing and everything, and I did understand the complications, but as somebody once told me: "It is a wise man who knows their own father", so even if you are married or not. But because you sign the piece of paper, you get the money. I do personally know 2 cases where a married couple were not getting on, and had lots of money. The other couple had a young child and had been together for years and years, got nothing. So it is not fair, but I think the Minister is trying to bring it up to date and I look forward to the day when we can sort out who is a dependent child and the survivor of that parent.

6.1.7 Connétable D.W. Mezbourian of St. Lawrence:

Thank you. I just have a very brief question, and Deputy Martin touched on it. It relates to means testing. We are means-tested for income support, and we read here that there is no means testing for this, or income bar. I wondered whether any consideration had been given to means testing to enable further people to receive the benefit after 2013. I feel in a similar way, I think, to the Deputy of St. Ouen; it seems to me very sad that we would be looking to remove the Survivor's Benefit, and I would like the Minister to answer that about means testing. Thank you.

6.1.8 Deputy G.C.L. Baudains:

When I read this a couple of times shortly after receiving it, I noticed the note I made to myself on the front page which says: "Unnecessarily complicated" and I have not changed my mind today. I do have some concerns about this. I am thinking roughly along the same lines as the Deputy of St. Ouen. This is essentially a money-saving exercise rather than a social readjustment, and husbands and wives do make long-term plans, not the sort of one-year plan that politicians are accustomed to making. Would this mean that a bereaved person in the near future would have to sell their house because they do not have the funds that they used to have? I have to say, if the Minister is struggling with cash balances, may I suggest he has a closer look at income support, which does seem to me to have been more efficiently managed when it was with the Parishes.

The Bailiff:

Does any other Member wish to speak? Then I call upon the Minister to reply.

6.1.9 Senator F. du H. Le Gresley:

As I tried to say to Members when I made my opening speech on the principles, it is never easy to stand here and ask an Assembly to look at reducing a benefit. But I think Deputy Le Hérissier really summed it up, and if Members would re-read my first proposition, which I brought as a Back-Bencher, this is an incredibly generous benefit, whichever way you look at it. I have to say to Members, if you were starting from scratch with a new benefit system in this Island, you would not create a survivor's pension that is available from the first year after bereavement until you reach your own pension age. Whether you lose your partner at the age of 25 or 55, it is still a very generous benefit. That is what we have to address, because the Social Security Fund cannot continue to pay out benefits which are that generous. Dealing with the specific points, Deputy Tadier, when I was trying to follow what he was saying, I think has got slightly confused. If you receive Survivor's Pension at the moment, and you leave the Island, you basically can carry on claiming that benefit until you reach pension age or cohabit or remarry. However, under the new rules, if you are no longer in receipt of it and you wanted to claim income support, yes you have to be in Jersey for 5 years continuously leading up to your claim for income support, or 10 years in the past. So the qualification rules for income support are completely different to the rules for claiming Survivor's Pensions. The 6 months that he was referring to only relates to the change of bringing the Invalid Care Allowance, i.e. the new Home Carer's Allowance, into the Social Security Fund, which will for the first time have a contribution requirement of 6 months at any time in the past.

[16:00]

So I think he was slightly confused, and if I have got it wrong, I am sure he will pull me up on that. Deputy Southern said it was a sad day, and I think he is right; it is a sad day, but we have to be brave, we have to make difficult decisions. The aspect of Deputy Le Hérissier's speech, which I thank him for, was also about what steps are we taking to monitor the 44 per cent of recipients of Survivor's Benefits who currently live overseas. At the moment, it is very much a self-reporting exercise, because of course we have not got Social Security offices all around the world checking up on whether somebody is in a relationship or whether they have remarried. It is self-reporting and for that very reason it is not a very good system, but one that we endeavour to police. The Deputy of St. Ouen is quite right; he is absolutely right when he says it is a tragedy when you lose your spouse, and nobody would deny that. I am certainly not brushing aside the tragedy that that causes in families, and I think it would be wrong to accuse me of doing that. It is a fact that when I brought my original proposition, I did suggest that we should stop this benefit when the eldest child reaches the age of 19. As Members will see, I have extended that now to 25, and more and more women, wives, are having children late. We know that. I think the recent announcement was somewhere in the region of age 32 to have a first child, so this benefit will be available for people until their last child completes their full-time education, and that could be at university or whatever.

So it will be available for some considerable time, for parents in particular. I understand Deputy Young's views, he is quite entitled to them and I respect what he says. Of course, he has brought his own amendment. At one stage I thought he was talking to his amendment. We have to have transitional protection in what we are doing today. It is generous, and the Social Security Advisory Council feel we are being too generous with our transitional protection. It is quite common when you make major changes to benefits that you protect existing recipients, and certainly that is on the basis of which I started out on this path. I have got a note there and I am not sure what it means; not to worry. I think Deputy Young is drawing too much similarity between this Survivor's Benefit scheme to occupational pension funds. This is not such a scheme. It is a scheme to assist people who have lost a loved one, but - and this example was given in my first proposition last year - if you lose a spouse at a very young age, you are looking at the contribution record of the deceased spouse. It starts from the age of 18 and in some cases, sadly, if there is a tragic death, that person's contribution record could be less than 5 years and you do not receive an old age pension if you have got a contribution record of less than 5 years. But under the current scheme, the spouse could get a Survivor's Pension for the next 20, 30 years if they are a fairly young widow or widower. As far as the Government Actuary, we have passed this by them by email, but the fact is that the last report done by the Government Actuary on the Social Security Fund which we released last year goes back to 2009. We are due to have another report done at the end of this year, and obviously they will take into consideration not only the proposed changes we are debating today, if they are approved, but also the increase in the pension age which has not been taken into consideration yet. So there are a number of aspects of changes to our Social Security Fund which the Government Actuary would have to review. Deputy Martin is absolutely right; we did have a meeting and tried to work out how we could treat co-habitees within this benefit, but of course the very word "survivor" does mean, insofar as the law is concerned, that you have to be married to benefit from this particular scheme. She is absolutely right, as well, and we do have people at the moment who are claiming income support and are receiving Survivor's Pension or Allowance, I think it is mainly the pension, and the whole of that money is disregarded when it comes to calculating their income support entitlement, and it always has been so. The Constable of St. Lawrence asked why we did not perhaps bring in means-testing to the existing benefit. The fact is that no benefit paid out of the Social Security Fund is means-tested, and we do not have any income bars on benefits paid out of the Social Security Fund. That is one of the reasons why this could not have been done. Deputy Baudains thinks I should go elsewhere to look for savings and suggested I should prune the income support budget. As Deputy Southern stated when he spoke, I have still got to find another £3 million by 2014. What I have tried to do is protect the carer's allowance. It is very important. We are moving to an ageing society and it is absolutely vital that that benefit is retained so that we can care for people in their own homes and that the person who gives up their job can be sure that they will receive money from the Social Security Fund. By moving that out of tax-funded benefit, I have saved that benefit for the future for carers caring for the elderly and people who are infirm in our Island, and I think Members need to be certain that we protect that particular benefit for the future, the cost of which is rising. We made a bid in the Medium-Term Financial Plan process of an additional just over £400,000 per annum which was unsuccessful, but the cost of that benefit is going up because more and more people are needing care and we are trying, under the Health and Social Services White Paper and proposition, to care for more people in their home and therefore having the Home Carer's Allowance will guarantee that money for people in the future. Sir, I think I have covered most people's points and I maintain the principles and ask for the appel.

The Bailiff:

The appel is called for then, in relation to the principles of Projet 101. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 31		CONTRE: 4		ABSTAIN: 1
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Senator P.F. Routier		Connétable of St. John		Deputy of St. Ouen
Senator A. Breckon		Deputy G.P. Southern (H)		
Senator S.C. Ferguson		Deputy G.C.L. Baudains (C)		
Senator A.J.H. Maclean		Deputy J.H. Young (B)		
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy M. Tadier (B)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

The Connétable of St. Mary:

Excuse me, there is a problem with the Constable of St. Saviour.

The Bailiff:

I think perhaps the Connétable was too late. Very well.

The Connétable of St. John:

Could we have a dry run to make sure it is working for the next one, please?

The Bailiff:

Greffier, is it possible to do that? There is no evidence that it is not, I do not think.

Deputy M. Tadier:

Could I just propose that we take that vote again? I know the ...

The Bailiff:

No, we cannot. Deputy Hilton, this matter falls within the Health, Social Security and Housing Scrutiny Panel. You are the Vice-Chairman and I think in the absence of the Chairman, do you wish this matter referred to you?

Deputy J. A. Hilton of St. Helier (Vice-Chairman, Health, Social Security and Housing Scrutiny Panel):

No.

The Bailiff:

Very well, so then we will move on to the individual regulations. Minister, do you want to propose the regulations in parts dealing with different topics? That is probably the best thing.

6.2 Senator F. du H. Le Gresley:

I would like to take the Regulations in the following order: numbers 1 to 11; 12 to 14; 15 on its own and then 16 to 18, which includes the amendments.

The Bailiff:

Very well, we will deal with the amendment separately, so 1 to 11, then?

Senator F. du H. Le Gresley:

Thank you. These amendments make changes to 4 separate benefits under the Social Security Law. I would like to deal with Regulations 1 to 11 first, which introduce a new benefit called: "Home Carer's Allowance." As explained in the first reading, the transfer of the benefit for working-age carers from a tax-funded benefit to a Social Security funded benefit is not intended to reduce the number of claimants or the generosity of the benefit. For the great majority of claimants, the new benefit is exactly the same as the old benefit. I have circulated some notes on the current Invalid Care Allowance Benefit prior to this meeting today and the areas that will be affected by these proposals. Regulation 2 amends Article 12 of the Social Security Law, and Regulation 3 amends Article 14. These 2 regulations insert Home Carer's Allowance as a benefit into the list of existing benefits that are paid out of the Social Security Fund and that have contribution conditions. Regulation 4 inserts a new Article 18A. 18A sets out the main rules for the new Home Carer's Allowance. Many of these reflect the existing rules under I.C.A. (Invalid Care Allowance). Paragraphs 1, 4, 5, 6 and 7 restate the rules that have been carried forward from the Invalid Care Allowance. I am happy to answer any questions in respect of these rules if Members have a query, but I can confirm that all of these areas are the same as the existing legislation. In general terms, Invalid Care Allowance and its replacement, Home Carer's Allowance, provide a social security benefit at the standard rate to a working age, unpaid carer, who spends at least 35 hours per week caring for someone with a severe disability. Turning to the regulations and looking at paragraphs 2 and 3 in more detail, at paragraph 2 there are 2 main differences in respect of the eligibility of the carer. Under the Invalid Care Allowance law, a carer was subject to a household income bar and the benefit was not available to individuals if the household income exceeded a set amount. In 2013, that bar would have been £63,786 per annum. Each year the department receives a number of applications that are rejected on the grounds that the household income is above the bar. Typically, this will relate to parents of a disabled child, where one parent remains in work and the other parent gives up work to look after the disabled child. In future, as long as the parent who becomes the carer has a contribution record, they will be able to claim the Home Carer's Allowance. Secondly, as the benefit is being moved into the Social Security Fund, it is necessary to provide contribution conditions on the carer. The purpose of the benefit is to provide an income to a working age person who is unable to continue in employment due to their caring responsibilities. I will explain the contribution conditions under Regulation 10. Paragraph 3: there is no change to the test in respect of the cared-for person. Paragraph 6.3(c) of the schedule to the Income Support Regulations relates to the highest level of personal care component, known as P.C.3. A new condition is introduced in respect of the residency of the cared-for person. The Order will require the cared-for person to have been living in Jersey for at least 12 months before

the beginning of the claim. Regulation 5, amending Article 26F: this new insolvency benefit which came into force on 1st December refers to payments of Invalid Care Allowance. This reference is replaced with a reference to Home Carer's Allowance. Regulation 6, amending Article 28, provides rules for dealing with what is known as "overlapping benefits." In general terms, an individual cannot claim more than one social security benefit at the same time, and Article 28 explains how this is achieved. Regulation 7, amending Article 33, explains how decisions are made and the appeal rights to independent tribunals. The Social Security Tribunal is made up of lawyers and is used to consider most appeals under the Social Security Law. Article 33(9) has been added to allow some Home Carer's Allowance appeals to be made to a separate Medical Appeals Tribunal.

[16:15]

This tribunal is made up of a lawyer, a doctor and a disability representative and is a far more appropriate body to consider appeals in respect of the caring responsibilities of the carer and whether the cared for person meets the criteria for personal care needs. Regulation 8, inserting Article 54B: this new Article transfers all existing Invalid Care Allowance claimants directly on to the new benefit. They do not need to show that they satisfy the residency test or the contribution test. However, once they have been transferred to the new benefit, their claims will be subject to review from time to time, and the carer will then need to demonstrate that they continue to provide regular and substantial care. 54B(5) relates to overlapping benefits between Invalid Care Allowance and Survivor's Benefit. Under the Invalid Care Allowance law, a claimant could receive both Invalid Care Allowance and Survivor's Benefit at the same time. As Home Carer's Allowance and Survivor's Benefits are both paid from the Social Security Fund, this will no longer be possible. However, there are 2 current claimants in this situation and these 2 individuals will continue to receive both benefits. Regulation 9, amending schedule 1, part 1: Home Carer's Allowance will be paid at the standard rate of benefit which is £187 per week or £811 per month. This is the same as the Invalid Care Allowance. At present, the Invalid Care Allowance is paid monthly in advance. In the first few months of 2013, Home Carer's Allowance will be paid monthly, as now. In the summer of 2013, the payment frequency will move to 4-weekly in advance, in line with other social security benefits. Regulation 10, inserting paragraph 3A into schedule 2: this schedule sets out the contribution conditions for each benefit. The contribution condition is that the carer has paid contributions for 6 months at some time in the past and has either paid contributions or received contribution credits for at least one month in the relevant quarter. The relevant quarter is 2 quarters before the quarter in which the benefit is first claimed. Returning to the example of a parent looking after a disabled child, it is very likely that the parent will not have recently been in work. However, it is likely that they will be receiving contribution credits through the Home Responsibility Protection Scheme and this will allow them to claim the Home Carer's Allowance. Paragraph 3A(2) provides for older married women, who may not have paid contributions when they were working because they had a red card or a married woman's election, there is no need for them to satisfy the contribution condition. Even with these safeguards in place, it is possible that a small number of carers will not satisfy the contribution conditions and will not be eligible for Home Carer's Allowance. However, in this situation it is likely that the household has a low income and will be covered by the Income Support scheme. Carers who receive income support are allocated a carer's component of £46.97 per week, in addition to their normal household components. The value of the Home Care Allowance benefit is taken into account when calculating income support entitlement. This means that the family receiving income support will have the same total income, whether or not the carer is eligible for Home Carer's Allowance. This is exactly the same as the current situation with Invalid Care Allowance. Regulation 11 deals with other legislation. Paragraphs 1 and 2 change the Income Tax Law to remove the reference to Invalid Care Allowance. Both Invalid Care Allowance and Home Carer's

Allowance are taxable income. Paragraph 3 repeals the Invalid Care Allowance law which is no longer need, and 4 makes changes to the Christmas Bonus Law. A Christmas bonus is paid to carers who receive Invalid Care Allowance and in future will be paid to those who receive Home Carer's Allowance. I have made it to the end of 1 to 11, and I propose the Regulations.

The Bailiff:

Are the regulations seconded? **[Seconded]** Does any Member wish to speak on any of Regulations 1 to 11? Deputy Southern?

6.2.1 Deputy G.P. Southern:

Thank you, yes, I just heard the magic words: "Paid 4 weeks in advance," and I rise because I do not get the opportunity to say it often enough: that causes tremendous difficulties in some households because if your circumstances change in that month and you end up overpaid, you then have to pay it back, and that causes hardship in many households, especially on income support. But in this particular case it may not be that changes in circumstances would be too common, but nonetheless, I wish to point out that 4 weeks in advance often leaves people struggling to pay back when they have been overpaid, and that, for people on benefit, is always a very difficult situation.

6.2.2 Deputy M. Tadier:

Thank you. I think the first thing to say is that most carers do it, I think, partly out of a sense of duty or a sense of benevolence, or a combination of the 2, and many of those carers will not even necessarily want to claim that money, and many of the pre-existing carers that we have today just take it upon themselves to do that anyway. I think we have mentioned these things in the past and when they find themselves in difficult situations, there is often not the help for them, for whatever reasons. What I really want to flag-up is on page 32, when it comes under the Article 4, Article 18A inserted. I am slightly concerned about the restrictions on who may be a carer and the basis of my concerns, I hope we all agree, is that carers are beneficial for 2 reasons. First of all, it is usually someone who is known to the sick person who needs to be looked after in whatever way. It is a relative or a friend and it is somebody who is therefore trusted by that individual. But the other point is more of an economic point, that it saves Government a great amount of money because whether we have relatives or such like and it is all tied-in with respite, we know the arguments, they are well rehearsed. If people are allowed to be cared for in their own homes or in the home of family and friends, it takes the burden away from the States and so I am concerned, for example, in part 2A and B, when I hear that a carer has to have contributed in the past and they have to have contributed for, I think it was, 6 months or they have to have the relevant pre-requisites. They also have to satisfy conditions of residency and I am just thinking, is it too prescriptive if an individual... and I am thinking of somebody in my constituency, probably does not apply in this case because his carers, I am sure, do have their residential qualifications and they, I imagine, also have made contributions in the past. But what if they have not? What if somebody has not made, for whatever reason, contributions and there could be all sorts of valid reasons and then they want to be a carer. The person who is being cared for wants to be cared for by that individual, will turn around and say: "No, I am afraid you have only been in the Island 4 years", or: "You have not contributed in the last ... you have not met the contribution requirements therefore we are not going to allow you to care for that person." They may be the only person around that that individual has got and therefore the alternative may be for that person to be taken into care at one of the care homes that the States would refer that person to at a great deal of expense to us. I am concerned that that is too restricted and I would also ask where has the scrutiny been of this document, but maybe it has been done. I am just concerned that that is not the case. It is always the exceptions that prove the rule and these are the kinds of things that you will get phone calls about and that I will get phone calls about months and years down the line when somebody says to me: "I wanted to

care for this person but I am being told by Social Security that I am not allowed to do it because I have only been here for 4 years”, and it is just a complete nightmare that I want to try and avoid. It ties in perhaps with other issues that we are dealing with at Social Security at the moment. So, if the Minister is able to give any reassurances in that and I know of course that all of these clauses are covered by ministerial discretion but of course discretion is not an ideal way to proceed whenever there are problems that are flagged up because then we get accusations of favouritism and making carve outs for individuals who do a lot of pleading. I would like him to address those issues and say why they are necessary given the very special circumstances that carers and those cared for find themselves in.

6.2.3 The Deputy of St. Ouen:

I just ask the Minister in his summing up if he could elaborate on 2 circumstances in which a person, the carer, is entitled to Home Carer’s Allowance and there are 2 matters in particular that I would like to focus on. One is regarding the cared for person must meet the criteria for the income support rate payable in respect of the highest level of the personal care element of the impairment component. Could he explain, do I presume that he is simply talking about those who would be eligible for level 3 care rather than one and 2? That is the first point because I do believe that there are some individuals that fall into levels one and 2 that equally need full time care. The other matter is regarding the fact that it says here: “Generally a carer who is over pensionable age is not entitled to Home Carer’s Allowance.” I am just thinking of a number of instances where families have youngsters with severe disability and there are occasions where, for various reasons, that youngster has to remain with the family, literally for their entire life. Indeed, I know of couples who are of pensionable age now who are looking after their child with special needs. This seems to suggest that they will not be eligible for the same benefit when they move into pensionable age and I would like to know from the Minister, well, what replaces it or does their income change? Equally, how does this law and the proposals impact on Health’s proposals to encourage more people to be looked after at home? Because it is likely that you could have people of pensionable age looking after elderly relatives in a home environment. Again, if he could just explain those matters I think it would probably help most Members and certainly me. Thank you.

The Greffier of the States (in the Chair):

Does anyone wish to speak? All right, I call on the Minister to reply.

6.2.4 Senator F. du H. Le Gresley:

The issue, I think it was mainly Deputy Tadier who asked a number of questions about Article 4 and I think the Deputy for St. Ouen was digging in the same area. There is no restriction on who can be a carer as such, other than that they have to have paid 6 months contributions at some time in the past. Now, that could be somebody who has left the Island and who returns and can prove that sometime in the past, and obviously we have their Social Security contribution records, that they have paid at some time in the past. But I mentioned about the relevant quarter; they would also have had to have a contribution record in the quarter but one before the first claim for this benefit. However, credits would be acceptable and there is a number of people who qualify for credits, for example, somebody who is actively seeking work and generally unemployed gets credits. Students who go away to University get credits and then there is the home responsibility protection which gives credits, which covers people who are looking after a child under the age of 5. So a lot of people are covered based on the credits that they have been given. Similarly, somebody who has been on sickness benefit for a while will also have credits, so we do believe that there will be very few people who would not meet this new criteria but all benefits paid out of the Social Security Fund rely on some sort of contribution record and we have kept this to the very minimum to make sure that very few people, if any, would fall outside of this scheme. I think those

are the main points raised by Deputy Tadier. The question of the Deputy of St. Ouen regarding the level 3 impairment, this is exactly the same test as is applied at the moment to receive Invalid Care Allowance.

[16:30]

So this is nothing new. We have never allowed Invalid Care Allowance to be available to somebody who would not meet that criteria and so we are not changing anything there and I do believe it fits in with the way forward for Health because, as I said when I proposed the principles, this does give a permanence to home carer's which is not a permanence within a tax-funded benefit. Tax-funded benefits are vulnerable, as we all know, to being cut because we need sometimes to find savings. Once it is safely ensconced within the Social Security Fund, we can continue to support carers who provide a vital role in our community and therefore we are safeguarding that very benefit for people who do at least 35 hours caring a week. I hope I have covered the points and I propose Regulations 1 to 11.

Deputy M. Tadier:

I do need some direction from the Chair, Sir. I am wondering if I could invoke the Standing Order which might refer this to Scrutiny, and I appreciate I have not been able to talk to the Scrutiny Panel. I certainly have great concerns about the implications of this carer's element, which I will not talk about now but I covered them earlier and I would also be happy to join the panel to be co-opted with other Members to look at this and give my time up because I am really worried about the implications if we do not get this exactly right.

The Greffier of the States (in the Chair):

You are entitled, Deputy, to make a proposition under Standing Order 79, which says that: "Any Member the States may propose without notice that the debate be suspended and the States request the relevant Scrutiny Panel to consider having the proposition referred to it." There are no restrictions that would prevent you making that proposition. Is there anything further you wish to add or have you made your remarks?

**6.3 Draft Social Security (Amendment of Law No. 4) (Jersey) Regulations 201- (P.101/2012)
- proposition to refer to Scrutiny**

6.3.1 Deputy M. Tadier:

If I can just add ... what reinforced it is in the Minister's summing up he talked about if people can prove that they have made contributions and I envisaged a situation. We know how sometimes ridiculous bureaucracy can be when people have had to go into Social Security or into Housing to prove that they have lived in Jersey and they were educated here even though they have been here 50 or 60 years and they have to go back to their school and get things like this. The bureaucracy of having to show that you have contributed or possibly have credits when all you want to do is care for an individual who may have had an acute illness, who, up until that point, could have been the breadwinner in your family and so you have had no reason to contribute to Social Security, for example. The other point is that credits are not given consistently across the board. Many unemployed people have their credits waived. Students might have them waived. Not everyone necessarily gets credits, which go towards their pension, for example. So I think there are so many issues here that need to be looked at and I want to hear from those who will be affected by it. As I have said, it is by no means to hold this up. It is to make sure that what we pass today is valid and correct and, as I have said, I am willing to join Scrutiny and perhaps another Deputy, Deputy Southern, or anyone, might be willing to join us because I know they have a busy workload and we could do the brunt of that, bring it back quickly and make sure it has been looked at properly.

The Greffier of the States (in the Chair):

Deputy Tadier has proposed that the debate be suspended and that the matter be referred to Scrutiny. That is what is now before the Assembly. Is that proposition seconded? **[Seconded]** Does anyone wish to speak on the proposition of Deputy Tadier? Minister?

6.3.2 Senator F. du H. Le Gresley:

I think Deputy Tadier is trying to make a mountain out of a molehill on this. All contribution records are maintained at the department. We know absolutely who has got a contribution record going back over 40-plus years. We know when they have had credits applied to their record and even if Deputy Tadier was right in his concerns, what we are saying really is that somebody cannot just bring in a carer from the U.K. or wherever they may come from and that we start paying a benefit. No, he is shaking his head but this is exactly what he is talking about... at the moment there is no test. So what we would have potentially is people bringing over a relative to care for them and we would be paying money out of the Social Security Fund, which that person has never contributed to. This is a contributory fund and therefore, to relax the rules any more than we are doing, and we have relaxed them as far as we can go, would in my opinion, be putting a strain on the Social Security Fund, which is unacceptable. We cannot just have people arriving and we start paying out a benefit from a fund that they have never contributed to. The 6 months contribution is very, very small. In fact, that person could be a paid carer for a few months to meet their contribution requirement. There are many ways that this could be achieved but I really think that Deputy Tadier is trying to give something to Scrutiny where there is nothing to look at and I would oppose it.

6.3.3 Senator P.F. Routier:

Following on from the Minister, I think he is right to say that the Deputy is trying to see in this probably something which is not there. From my understanding, putting this Invalid Care Allowance into the new legislation and really hard-wiring it and to protect it for carers in the future, I think, is a really positive thing that is happening. The Deputy, in his initial speech spoke about somebody coming to the Island would not be able to care for somebody if somebody had a good relationship with them. There would be nothing to stop them caring for somebody, it is just that they would not be getting the benefit for it. But I think that in all of our benefits, there needs to be a minimum amount of 6 months of contributions paid to benefit from any of our benefits. There needs to be a limited amount of time that somebody should have contributed before they can get any financial benefit. I certainly think that the Minister is going about this in the right way and I hope that Members will not support the reference to Scrutiny.

Senator F. du H. Le Gresley:

I have erred in my last speech, just then. Under the current rules of Invalid Care Allowance, a carer has to be here for 6 months under the current rules. So really we are not saying anything different with what we are moving across to.

6.3.4 Deputy G.C.L. Baudains:

I am using this microphone; I am told this one does not work. I know of at least one circumstance in reverse where somebody who had never worked in the United Kingdom was obliged to go there to look after a sick relative. If you reverse that situation, if somebody suddenly requires caring in Jersey and they send for their daughter or son from the United Kingdom who have never worked in Jersey, apparently from what I can understand, that person will have to do it free of charge, there will be no money coming into the household, so how they are supposed to live, I do not know. I do believe this needs looking at.

6.3.5 Deputy J.A. Martin:

Just briefly, I think I understand where the Deputy is coming from but I think he might even be looking at the wrong law, and secondly, we have not heard from Scrutiny yet, but I am sure they are absolutely snowed-under. To me, this would be easily covered when we bring in the Long-Term Care Allowance because we are trying to keep people out in the community. Now, you pay the person to pay the carer and it is quite simple and this is where I do know that Scrutiny will be looking in detail at that law and I do not think that sending it back will get what the Deputy is asking for and I do not think it is too much of a change of what really happens now. I will listen to more arguments but I do really think that what he is worried about, it will not be done, it will just be delayed and Scrutiny will not be doing it. As I say, it is the wrong law because the person who is ill can pay a carer, whether that is a relative or not, under the new law that we will soon be bringing in.

6.3.6 Deputy J.A. Hilton:

I have listened to what the Minister has said in response to Deputy Tadier and I have to agree. Deputy Tadier made the point that sometimes it is difficult to trace whether a person has made the 6 month contributions and everything else ... that is not true. I mean, Social Security keep extensive records going back a very, very long time about who has paid what. I agree with what Deputy Martin just said previously as well and I think it would have been helpful maybe if he had spoken to the Minister prior to the debate about your concerns here because I think possibly you are misunderstanding it. Do Members want to encourage people to come to the Island and to be able to claim benefits when they have not even contributed 6 months into the system? I do not think we want to encourage that. As far as the Scrutiny Panel is concerned, yes, our workload is tremendous, but if it is the will of the House that we scrutinise this, then it is the will of the House but I am struggling to understand where Deputy Tadier is coming from on this one.

6.3.7 Deputy G.P. Southern:

There are obviously some concerns about this overall package rolled into what is occurring here because to start with, there are 2 amendments to it, so there must be some concerns. But also, a passing remark was made sometime ...

Deputy J.A. Hilton:

Excuse me, Sir. If Deputy Southern does not mind giving way, I think the amendments are to do with the age limits on the Survivor's Allowance, not the Invalid Care Benefit.

The Greffier of the States (in the Chair):

To clarify, Deputy Tadier's proposition is clearly related to Regulations 1 to 11, although the whole debate would have to be suspended if it were referred to Scrutiny.

Deputy G.P. Southern:

So my comment that there has not been an actual report on the impact of these changes, which I think I have seen ... I got an email the other night that said the Survivor's Benefit is likely to reduce because of demographics, from £5 million to £3 million. We may not be making that much space for this particular change... it is largely irrelevant.

6.3.8 The Connétable of St. John:

I can understand in part where the proposal for this is coming from. I heard while I was in the anteroom that the Minister said that I had asked for a hard copy of the report but in fact that hard copy only arrived yesterday in the post. I got in late last evening, after a day in here plus going on to the Parish Hall and I have not had time to read that because we have been tied-up in here all day on other government business and, really, if other people have had the same kind of problem in getting a hard copy from the department, and I asked for it as soon as it came out on the notification

from the department, I think it is a poor show that we could not get the hard copies out much sooner and I am supporting the Deputy.

The Greffier of the States (in the Chair):

If no other Member wishes to speak, I will call on Deputy Tadier to reply.

6.3.9 Deputy M. Tadier:

Let me just clarify the rationale and following on from the Constable of St. John. This is the whole point of debates. We have debates ... we want to hear both sides of the argument. We want to hear from the Minister when we have concerns; we ask the Minister to sum up and if we are still not satisfied and if those concerns are of such a nature that we just could not go home and feel comfortable passing a law which I feel is not quite right... and certainly I support the aims of these amendments and this law. It is incumbent upon us as States Members to do something about it: that is partly to respond to the comments of Deputy Hilton. The whole point also is that this needs to be evidence-based. We do not seem to have the facts. We have the suggestion that people are queuing up to come from the U.K. to become carers for people in Jersey because it is an easy option to claim benefits. That, to me, sounds like nonsense. If there is any truth in it or if there are safeguards that need to be put in against that, that is what should be looked at in an evidence and fact based way which is what Scrutiny would do. But my contention is that this is not the same as any other benefit. It is not unemployment benefit, which we do not have. It is not Job Seeker's Allowance, which we do have. It is the point to make that any person who is looking after an individual, as I said earlier, is saving the States money. That is the point. So it does not matter whether you are paying the benefit, I am suggesting to person X, who does fulfil the criteria, or somebody who current does not fulfil those criteria, because the point is, (a) the person who needs caring is being looked after by somebody they trust. They are not going to phone up an agency from the U.K. to bring somebody over and even if they did it would probably be a family member. That, I think, is very unlikely. It is usually going to be somebody who is on the Island that looks after their care. I am not saying either to get rid of the residential criteria qualifying for this benefit or to necessarily look at the contribution. I am saying we should not necessarily be applying automatically the same rigid criteria that we do for other benefits because it is not the same thing. I am concerned about the unintended consequences of this. If the Minister can assure me that I am not going to get phone calls from a person in St. Brelade who is severely disabled and saying: "This person cannot look after me now even though they have been here 4 years."

[16:45]

To comment on Senator Routier's comments saying that there is nothing to stop them looking after the person, they just would not get any benefit from them. Well, that is a reason. There is an economic reason for them not to do it. They would be better off going out to work, doing their 35 hours perhaps working in a bank or somewhere else where they can earn £500. "Thank you very much, that will pay the rent but that is not what I want to do. I want to look after my friend, my relative or my aunty who is severely disabled", and I would suggest what if the only person who they trust to care for them does live in the U.K.? A former Jersey resident who did move over the U.K. Did their university there, got qualified and they come back to Jersey to look after one of their relatives. Should they not be able to qualify for this modest benefit in relative terms because they are putting something back into society?

Senator P.F. Routier:

A point of order, Sir. If somebody has been a Jersey resident who has been to college and has done some work here, it is very likely that they will qualify.

Deputy M. Tadier:

And he picks holes of course in that particular example but there are examples of somebody who has maybe been in Jersey for 4 years, whatever. There are so many examples which one could use to highlight the points and the possible pitfalls in this. I just want to make sure that we have got the best possible policy that we can. To sum up, even if this does not get referred to Scrutiny today, I think that Deputy Martin's comments were very helpful. There might be other ways which we can achieve the same thing but I am just concerned that this is not the type of law where one size fits all. This particular aspect of it, I think, does need to have the inbuilt sensibility, perhaps a bit of commonsense policing that we would have seen from the Welfare system under the Constables, which our current system, unfortunately, if we adopt this today, does not allow. So I do ask Members to vote for this to go back to Scrutiny. I will be happy to take a leading role in it with any other Members and it will be limited to these areas of Home Carer's Allowance. It is not a case of reopening the whole legislation and looking again at, for example, Widow's Allowance, et cetera.

The Greffier of the States (in the Chair):

The appel is called for. Very well, the vote is therefore for or against the proposition of Deputy Tadier that the debate be suspended so that the Scrutiny Panel can consider having the matter referred to it and the Greffier will open the voting.

POUR: 10	CONTRE: 30	ABSTAIN: 2
Connétable of St. Helier	Senator P.F. Routier	Deputy of St. Ouen
Connétable of Grouville	Senator P.F.C. Ozouf	Deputy J.A. Hilton (H)
Connétable of St. John	Senator A. Breckon	
Connétable of St. Brelade	Senator S.C. Ferguson	
Deputy R.C. Duhamel (S)	Senator A.J.H. Maclean	
Deputy G.P. Southern (H)	Senator B.I. Le Marquand	
Deputy M. Tadier (B)	Senator F.du H. Le Gresley	
Deputy T.A. Vallois (S)	Senator I.J. Gorst	
Deputy G.C.L. Baudains (C)	Senator L.J. Farnham	
Deputy J.H. Young (B)	Senator P.M. Bailhache	
	Connétable of Trinity	
	Connétable of St. Clement	
	Connétable of St. Peter	
	Connétable of St. Lawrence	
	Connétable of St. Mary	
	Connétable of St. Ouen	
	Connétable of St. Martin	
	Connétable of St. Saviour	
	Deputy R.G. Le Hérisssier (S)	
	Deputy J.A. Martin (H)	
	Deputy of Grouville	
	Deputy of Trinity	
	Deputy E.J. Noel (L)	
	Deputy J.M. Maçon (S)	
	Deputy of St. John	
	Deputy J.P.G. Baker (H)	
	Deputy S.J. Pinel (C)	
	Deputy of St. Mary	
	Deputy of St. Martin	
	Deputy R.J. Rondel (H)	

6.4 Draft Social Security (Amendment of Law No. 4) (Jersey) Regulations 201- (P.101/2012) - resumption

The Greffier of the States (in the Chair):

Very well. So Senator Le Gresley had summed up on regulations 1 to 11, so I put those Regulations. The appel is called for. I ask the Greffier to reset the voting system. The vote is for or against Regulations 1 to 11 of the draft Regulations and the Greffier will open the voting.

POUR: 38		CONTRE: 4		ABSTAIN: 1
Senator P.F. Routier		Connétable of St. John		Deputy M. Tadier (B)
Senator P.F.C. Ozouf		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy M.R. Higgins (H)		
Senator S.C. Ferguson		Deputy G.C.L. Baudains (C)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisseier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.J. Rondel (H)				

The Bailiff:

Very well, Minister, I think now you are going to propose part 3, Regulations 12 to 14.

6.4.1 Senator F. du H. Le Gresley:

If I could be just allowed to comment on something that Deputy Tadier said before, if he would like to just stay in the Chamber a second.

The Greffier of the States (in the Chair):

Do not reopen the debate, Senator.

Senator F. du H. Le Gresley:

I just wanted to inform him that we did consult with the Jersey Association of Carers Incorporated and they were happy with all the proposed changes. I just thought he might like to know that. So Regulations 12, 13 and 14 make minor amendments to the Insolvency Benefit. The benefit came into force on 1st December and replaced the Temporary Insolvency Scheme that was established in 2009. Regulation 12 amends Article 26D. The Insolvency Benefit will pay a maximum of £10,000 to one employee. Payments can be made under 4 separate components and in some cases the total value of the components will exceed £10,000. In this event, the law specifies the order in which the components are discounted from the £10,000. This Regulation makes a small change so that the amount owing in lieu of notice is discounted first before redundancy payments rather than the other way around. This will speed up the payment of benefit because the redundancy payment is known immediately, whereas the amount owing in lieu of notice can only be calculated at the end of the notice period, which in some cases could be up to 12 weeks after employment has ended. Article 13 amends Article 26F(2) and Regulation 14 amends Article 26I. These 2 amendments add additional clarity to the Insolvency Benefit but do not make any changes in its operation. The definition of wages is clarified for the purposes of calculating holiday pay and Article 26I makes it explicit that the Minister can seek to recover, in the insolvency proceedings, amounts in respect of income tax liability and social security contribution liability in addition to the value of the Insolvency Benefit itself. I propose Regulations 12 to 14.

The Greffier of the States (in the Chair):

Are they seconded? **[Seconded]** Does any Member wish to speak on any of Regulations 12 to 14? Those Members in favour of adopting, kindly show? Any against? They are adopted. Do you wish to propose Regulation 15 in isolation, Minister?

6.5 Senator F. du H. Le Gresley:

Regulation 15 amends Article 23A. I have taken the opportunity of making a small change to the Adoptive Parent Grant. This grant is paid at the same rate as a maternity grant, currently £562. Under the current rules, there is no restriction on a stepparent claiming an adoptive parent grant in respect of his or her partner's child. The revised Article will not allow a stepparent to make a claim in this way. At the same time, the contribution condition is matched up with maternity grant so that only one of the parents needs to satisfy the contribution condition to claim the adoption grant. Sir, I propose regulation 15.

The Greffier of the States (in the Chair):

Is that seconded? **[Seconded]** Does anyone wish to speak on Regulation 15? If not, I put the Regulation. Those Members in favour of adopting it, kindly show. Any against? It is adopted. We come now, Minister, to part 5 where there are the amendments. Now, we would normally take Regulation 16 first because it is not subject to amendment. Are you able to make sense of your notes to propose it in that way?

Senator F. du H. Le Gresley:

Sir, I think it would make sense, as this is all about the Survivor's Pension, to have the debate on the amendments first, if that was possible.

The Greffier of the States (in the Chair):

Very well, the precedent was set with the Income Tax Law at lunchtime, so I invite you to propose part 5. Do you wish to propose Article 17 as amended by your own amendment?

Senator F. du H. Le Gresley:

Yes, Sir.

The Greffier of the States (in the Chair):

Very well. I think perhaps in the interests of good order we should ask the Greffier to read ... in fact, it is 17 and 18 is it not, in this case? As amended by your own amendments. I will ask the Greffier to read your amendments.

The Deputy Greffier of the States:

On page 38, Regulation 17. In the inserted Article 54C for paragraph (1), substitute the following paragraph: "(1), Article 24(1)(b)(iv) and (5) shall not apply in the case of a person who (a), immediately before commencement was entitled to Survivor's Benefit or (b) before commencement has attained the age of 57." Number 2 on page 38, regulation 18. In paragraph (2), for the words: "On 1st December 2012" substitute the words "7 days after these Regulations are made by the States."

The Greffier of the States (in the Chair):

So you are proposing Regulations 16 to 18 as amended by those amendments?

Senator F. du H. Le Gresley:

Yes, Sir.

The Greffier of the States (in the Chair):

Do you wish to speak to them?

6.6 Senator F. du H. Le Gresley:

Well, quite simply, Sir, the reason that I have amended my original proposition is because I have listened to a number of States Members, in particular, I had a very productive meeting with Deputy Hilton and Deputy Young and following that meeting, I put forward this amendment to provide additional transitional protection to individuals who, at the end of this year, 2012, are at least aged 57 years old but this will create an additional one-off cost to the Social Security Fund of approximately £2.5 million. Sir, do you wish me to do the second part of the amendment as well?

The Greffier of the States (in the Chair):

Yes, if you wish to.

Senator F. du H. Le Gresley:

This relates to Article 18. I originally proposed that the minor amendments to the Insolvency Benefit and the Adoptive Parent Grant should come into force on 1st December. This amendment acknowledges that 1st December has now passed and sets the commencement date for these 2 changes as 7 days after the Regulations are made and I propose the amendment.

The Greffier of the States (in the Chair):

Regulations 16 to 18 are proposed as amended by the Minister and there are 2 amendments to Regulation 17.

6.7 Draft Social Security (Amendment of Law No. 4) (Jersey) Regulations 201-(P.101/2012): second amendment (P.101/2012 Amd.(2))

The Greffier of the States (in the Chair):

We will take firstly the amendment that makes the greatest change, which is that of Deputy Southern. If that were to be rejected, we would be able to move to the amendment of Deputy Young, but first of all I will invite the Greffier to read the amendment of Deputy Southern, which is the second amendment.

The Deputy Greffier of the States:

Page 2, Amendment 1 - in the substituted paragraph (1)(b) of the inserted Article 54(C) for the words “has attained the age of 57” substitute the words “has attained the age of 50.”

6.7.1 Deputy G.P. Southern:

This amendment, before we start on it, is not an attempt to freeze a benefit in aspic, as Deputy Le Hérisier has suggested. This is about the practicalities of changing the benefits but protecting those who may need protection. The end result of any of the amendments is that in the long run, the saving will be made on the Social Security Fund and eventually the numbers in receipt of Survivor’s Pension will go down substantially. So whichever of the amendments you are voting for, you are attracted by, they all achieve the same end in the long term and that is what we are talking about, a long run. Now, Deputy Young suggested that what he was interested in is protecting those at the margin and indeed so am I. The question is where does that margin start? I say 50. Deputy Young says 55. The Minister says 57. There is a difference in cost in those 3 elements but all of them can be supported by the fund and I will talk about the costs in a while. As part of his previous report, P.105, the Minister said: “37 years ago [which is 1974, when the Social Security Scheme began] significantly fewer married women were in full-time or part-time employment compared with the makeup of the labour market today.” And that is the assumption that underpins this change, that all of a sudden, 1974, many women, perhaps most women did not go out to work and saw themselves as home carers, as housewives. Now, a lot more women work and indeed that is true, but the key change was not 1974. I am comparing then with now. The key change was in 2000 when the red card, the married women’s exemption ... if you were married after 2000 then you had to pay your own contributions. If you were married before, and that is an awful lot of people stretching back really quite a long way, those women did not have to work and may well have chosen largely to be home carers. The question is where are those home carers? Now, those home carers, for example, might have been out of work, they might have brought their kids up, they might never have worked. They might have done some work, brought their kids up but have already started to slow down, ease the pace of their lives and the approaching time when they are looking forward to retirement. They may have done very little work in their lives. They may not have worked for a number of years and be incredibly difficult to place back in work.

[17:00]

You have lost your spouse and, under one scenario, you are not eligible for Survivor’s Pension, perhaps you are on income support, in which case you have got to be a job seeker and for some that might be really quite a traumatic thing and certainly very difficult to place some of these people and women in particular in work. I would urge Members to get out their P.101 amendment 2 because I am going to throw some numbers at you and they are probably more easy to understand if I do them when you have this report in front of you. On the bottom of page 4, you will notice the age distribution in Jersey at the moment from the most recent census. You will see that the numbers of people, as you go down the age band, are increasing quite significantly, as you come down from 95 plus, obviously there are not many of those left, but down to 46 to 49, you have got an increase in population overall. For 40 to 49, that peak as we go through the coming years will move across. More people in the younger age groups are there and potentially eligible for Survivor’s Benefit. Bearing in mind that we are talking about red card exemptions and a generally different lifestyle,

which might have involved more home care in the older generations, let us look at page 5 where the numbers of those who claim Survivor's Benefit might be and what we notice is obviously at the lower ages, up to 49 and under 45, relatively small numbers. Obviously, by and large, people do not lose their partner at a young age. But that starts to creep up at 50, significantly, and then 55 plus, 60, 64, obviously after 65 you are on the ordinary pension, Survivor's Benefit does not get paid anyway. But there are some significant numbers. Bearing in mind that the numbers of 50 plus and 55 plus is going to be going up in time as we go through the next decade or so there will be more eligible for this benefit and another thing to notice is that by and large, the people we are talking about, 3 to one, are women who may have taken the married women's exemption back then, pre-2000. Those 50 year-olds, might have been, if they got married at 20 or thereabouts, got married back in 1980. The 55 year-olds got married back in 1975. Think back. Do you remember how booming we were? How many people were in work then, how we had a revolutionary change in the way women lived and carried on their lives? Perhaps not. How many of those are in the household today looking after the house and see that as their primary task? Let us have a look at the bottom column of those looking after the home and/or family who describe themselves in the census as that is their main job. Significant numbers, obviously high numbers in the 30s, 34s, 35s, 39s, probably looking after children many of them but also that is where there is a population bulge, there is more of them. But as they come down through the age bands, at 50 to 54, 390. 55 to 59, 365. 60 to 64, 306. 1,000 people who describe themselves as looking after the household over 50. Now, the Minister's amendment gets some of those over 60. He has gone for 57 plus. Deputy Young's amendment goes to those who are 55 and gets two-thirds of them. My amendment goes to 50 because I do not believe that lifestyle has changed that much and I want to protect those 3 groups. Turning the page, on page 6, what we find is a statement made by the Minister that of course for those who are not eligible for Survivor's Benefit will be supported by income support. Then we look on the table on page 6 and see what sort of households are these people living in and again, 50 to 54, 4,500 of them are in owner occupied property. 55 to 59, almost 4,000. 60 to 64, almost 4,000 in owner occupied property. So not necessarily poor. They are not necessarily rich, but they are living in their own household. What does that mean? That means when income support comes along to pick them up, because they are not eligible, because they are owner-occupiers, they receive less money, less support, than do those who pay rent. The figures are there, if you are a single person, you have just lost your spouse and you have to fall back in income support, that is the network that comes in for you, you get an adult component of £92, a household component of £51 currently, accommodation, because it is not rent, it is only for peripheral expenses of running a household, and you could be in your own house asset rich but income poor, only £12. If you are renting, that goes into the equation. We will pay you up to your full rent on top of that. If you are in owner/occupier, and let us say, asset rich but income poor, you have just lost your spouse who was the main breadwinner and you are not, then you get a total of £155 a week to live on, compared to £187 if income support picks you up and you are a renter. That is significant, I think. That is why I have gone for 50. I think there are significant numbers, over 1,000 households, where one person calls themselves the carer of the family, looking after the home or looking after family and I think there are maybe significant numbers in there. Significant proportions of whom, and it is over half in each of those groups in owner-occupied who may be asset rich, they have got a house, but income poor, who will need significant support. Income support will not pick them up to the same extent. I do not think that is right. The Minister has put his mark in and said that we will protect these over 57. I am saying, hang on, that leaves a majority of people who may well be home carers, vulnerable and exposed because income support will not pick them up to the same extent. I see no evidence produced by the Minister that his figure is right and my figure is wrong. Just imagine a requirement to actively seek full time work, it is intrinsic to income support. If you are on income support, you have got to actively seek work. Imagine the 51 year-old, the 54 year-old; she has been looking after the home for the past 5 or 7 years, may have

brought the kids up and done very little work. Lose your partner and what is the State doing for you? Your husband, if you were on the red card, has put in his contribution and you will be expecting to see that Survivor's Benefit coming your way. You would expect that to be there for you at your moment in need. After a year, it disappears. Can you really be expected to go out to work afresh after a big gap? Will you find anybody who will employ you after those sort of years? You might, but nonetheless, applying for jobs, producing your C.V. (curriculum vitae), going for any suitable job that you are equipped to do, attending job interviews, if she has got to receive support from income support after she has been bereaved. Now I do not think that is the proper way to go. I think that protection should be 50-plus because I think the figures suggest that that is where the problem will be. It is no use imagining you are putting adequate protection in at 57 when in fact the majority of the people you might be affecting, and we go back to that 2000 year, married before 2000. Wife now looking after the home, might be employable, might not be. That is what we have got to build the transition in. For those of you worried about the money, I have done the calculation and I estimate around £13 million it will cost out of the fund but that is long term. Once those people have gone, that is £13 million between the ages of 50 and 60 or 65. So that is over a 10 to 15 year period. So it is £1 million a year that might be coming through the fund, which, as I pointed out earlier to Members, is quite healthy. It is still growing at the moment but it does get extinguished. So the problem is coming but it gets extinguished towards 2059. We have got time to sort the fund out. The fund can cope with this and eventually this saving will be made but the majority of it will be some way down the line. Further down the line than just costing £2 million to £2.5 million, which is what the Minister says. So £13 million over 10 to 15 years. Perhaps a little more, I will be honest, because I have built-in to mine that some of these 50 year olds may not get their pension until 67. So it might be £14 million. But still the principle applies, £14 million over 14 years. The fund can stand it. I think that is the right age. I am content to vote for that because I have taken a look at the figures and that is where I believe the problem might be and it would be difficult for this particular sector of people. Think of people you know, families you know. Are all of the women out at work? No, I do not think they are. Some significant portions of them will be caring for the home, caring for family and will have been doing that for some time. Some of them will be asset rich but, when their spouse dies, income poor and some of them will need transitional support. That is the case I am making for that transitional support to be at 50 and not any later because I think it misses significant numbers. I maintain the amendment.

The Greffier of the States (in the Chair):

Is the amendment seconded? [**Seconded**] Does anyone wish to speak on the amendment?

6.7.2 Deputy J.A. Martin:

I really feel at the moment that I am not going to support this. I think the Minister has pitched it quite okay. Just on the page where Deputy Southern makes a big deal about what you can and cannot get under income support, is you cannot get the rent component but your rent component is for your landlord. Not for you. So it is a little bit of a false picture and I am sorry but the new 50 is the new 40, I am told.

[17:15]

My hip is not feeling like that today but, you know, we have to get in the real world. We have put the pension age up, this is ... I do trust the Deputy's research but I really think I probably trust the Minister's 7 years ... I mean, normally I would probably look at Deputy Southern's amendment, which I have done, but I do not understand. You have lost your partner and I think, unless I am missing ... I have just read the Regulation, I think he is talking about just women but I think it is the surviving spouse, so the Deputy is painting this poor person who has been forced by Social Security to go out to work and it is not like that. The word is "actively seeking" and if you have

those amount of years transition, and you have sadly lost a partner, that you are in a lifestyle, I think it might be very helpful to get back out into the big, wide world and it is not going to ... it is less transition time, but as I say, I think we do have to get in the real world. I do not understand where before 2000 all these people, 77 per cent of women are of working age and that Deputy Southern is saying that means nearly 25 per cent are not. We do not know their circumstances or their ages. Are they pensionable? Are they under? So, at the moment, I am definitely not going to support 50. I think the Minister has got this one right and that is very misleading about ... I do know, it is asset rich, cash poor but there are things you can do, you can either downsize in the transition, you are able if you own your own property to take in a lodger. There are ways around it where if you are in the other 2 columns where either you are renting or you are unqualified or whatever, any money you get goes straight to your landlord, private, social or unqualified. So he is not painting an accurate picture so unless ... I will listen to what the Minister did flash and I spoke because I did not think anyone else was, but I did want to explain to the Deputy and others why I do not think this amendment does stand up.

6.7.3 Senator F. du H. Le Gresley:

I am pleased to hear from Deputy Martin because I think she has got it right and I am not too sure that Deputy Southern has not got it wrong. He keeps making reference to the red cardholders or the women who have what is known as Married Women's Election. The election stopped, effectively, in 2001, so anyone married in 2001 has to have a blue card and pay contributions. The point he is trying to make, he is trying to protect people who were married before 2001 but many of these women choose to go out to work. It is just that we have a very advantageous system for them because they do not have to pay contributions. It does not mean that they are not workers. A lot of them, I am sure, are workers but they are not paying contributions so it is wrong to draw much comparison to this date of 2001. It was purely the date that people could no longer elect, if they got married after that date, to not pay contributions. So that is a myth that we need to dispel. I think the age of 50 is too low, quite clearly, that is why I propose 57. We have done further work since we were asked to provide a figure for Deputy Southern's amendment and in fact the latest calculation we have is that allowing protection for people currently over the age of 50 would cost the fund in excess of £15 million. That is the latest figure we have worked out. That means that, bearing in mind the Survivor's Allowance is paid for a year anyway, we are talking about in excess of £1 million a year to provide protection for people aged 50, men and women, civil partners, et cetera, which I think is not necessary. We are proposing 57 because it ties-in with the actual changes to the pension. Pension changes, the increase in pension age, commenced in 2010. It also ties-in with the time that the last of the women who can retire at 60 finish. So there is logic in our age of 57. I do not believe that we need to protect people at the age of 50 at the present time. I think it is too generous and I would urge Members not to vote for this amendment.

6.7.4 Deputy S. Pinel of St. Clement:

Deputy Southern referred a lot in his amendment to the census. This is largely irrelevant in this case because 44 per cent of current people on Survivor's Pension do not live in Jersey. Also, to back up Deputy Martin's assertion that if a survivor is in an owner-occupied situation, they are more likely to have a more generous pension or more generous income. The cost implications referred to by the Minister of Deputy Southern's amendment are very substantial at being over £15 million. The introduction of this low limit of 50 would, in most cases, be unnecessary. It is well known that most children now are born to couples who are possibly 10 years older than a couple of generations ago. In Jersey, the average age for having a baby is 32. A lady having a baby at 32 years of age would still be covered by the Survivor's Benefit or Pension, as it is confusingly known, at the age of 57, if her child is in full-time education until the age of 25 as described in the proposition. This, in itself, is a generous increase from the age of 19 as in the

original 2011 proposition brought by Senator Le Gresley. Without the demands and expense of a child or children, there is no reason why the general public, through contribution payments, should be incurring the cost of supporting a survivor, a widow or widower, who, at 50 is still very able to acquire employment. Anyone in this situation is, of course, entitled to the Survivor's Allowance for one year after the death of a spouse. A potential 15 years of Survivor's Benefit or Pension until the Old Age Pension begins is unsustainable.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on the amendment? If not, I will call on Deputy Southern to reply.

6.7.5 Deputy G.P. Southern:

I am disappointed in Deputy Martin who is saying we have to get with the age. 25 per cent of women do not work now. That goes, I believe, across the age bands significantly. That is a quarter of the women, in those age bands, that I am trying to protect who probably do not work and 1,000 households in which that person says I am the prime carer for the home or the family. So that is undeniable, I think. I think that this revolution that is supposed to have swept Jersey is overplayed by the Minister. I do not think it is safe, that is all I am saying, I do not think it is safe to start at 57. I think the transition should apply to the over 50s. Again, Ministers, like many before them call benefits "too generous." I do not think that is the case at all. Deputy Pinel has made some statements about us having children later nowadays therefore many of these women will be protected by the fact that they have got children under 25 but she failed to go to the census and find out how many elderly parents we have got. It is perfectly possible to do that. She has not done it. I think that is a red herring. She then says to maintain £14 million or £15 million, using their own figures, over 15 years is unsustainable. It is not. It is not unsustainable at all. It is £15 million over 15 years, the pot can cope with it. The fund can cope with it. That is the reality. Now, vote whichever way you like but I believe the case for over 50s is valid and I maintain the proposition, Sir, and call for the appel.

The Greffier of the States (in the Chair):

The appel is called for on the amendment of Deputy Southern which would change the age from 57 to 50. Members are in their seats, the Greffier will open the voting.

POUR: 6	CONTRE: 29	ABSTAIN: 0
Deputy G.P. Southern (H)	Senator P.F.C. Ozouf	
Deputy M. Tadier (B)	Senator A. Breckon	
Deputy T.M. Pitman (H)	Senator S.C. Ferguson	
Deputy M.R. Higgins (H)	Senator A.J.H. Maclean	
Deputy G.C.L. Baudains (C)	Senator F.du H. Le Gresley	
Deputy R.J. Rondel (H)	Senator L.J. Farnham	
	Connétable of St. Helier	
	Connétable of Trinity	
	Connétable of Grouville	
	Connétable of St. Clement	
	Connétable of St. Peter	
	Connétable of St. Ouen	
	Connétable of St. Martin	
	Connétable of St. Saviour	
	Deputy R.C. Duhamel (S)	
	Deputy R.G. Le Hérisssier (S)	
	Deputy J.A. Martin (H)	
	Deputy of St. Ouen	

	Deputy of Grouville		
	Deputy J.A. Hilton (H)		
	Deputy K.C. Lewis (S)		
	Deputy E.J. Noel (L)		
	Deputy T.A. Vallois (S)		
	Deputy J.M. Maçon (S)		
	Deputy J.P.G. Baker (H)		
	Deputy J.H. Young (B)		
	Deputy S.J. Pinel (C)		
	Deputy of St. Mary		
	Deputy of St. Martin		

The Greffier of the States (in the Chair):

Very well, therefore we are able to take the amendment of Deputy Young, the first amendment. I ask the Greffier to read the amendment.

The Deputy of St. Ouen:

Can I just propose the adjournment because obviously we are going to ...

The Greffier of the States (in the Chair):

It is only 5.25 p.m. but it is a matter for Members.

Deputy J.H. Young:

Sir, I am going to speak for more than 5 minutes, I am sorry to say. This is an important matter, we are not going to finish the business of the day. There is a lot more for tomorrow so I think we should adjourn.

The Greffier of the States (in the Chair):

All Members in favour of adjourning, kindly show? The appel is called for. The Deputy of St. Ouen has proposed the adjournment, if you wish to adjourn you vote pour, if you wish to remain, you vote contre and the Greffier will open the voting.

POUR: 23	CONTRE: 19	ABSTAIN: 0
Senator A. Breckon	Senator P.F. Routier	
Senator S.C. Ferguson	Senator P.F.C. Ozouf	
Senator A.J.H. Maclean	Senator F. du H. Le Gresley	
Senator B.I. Le Marquand	Connétable of Trinity	
Senator L.J. Farnham	Connétable of St. Clement	
Connétable of St. Helier	Connétable of St. Peter	
Connétable of Grouville	Connétable of St. Lawrence	
Connétable of St. Mary	Connétable of St. John	
Deputy R.C. Duhamel (S)	Connétable of St. Ouen	
Deputy R.G. Le Hérisssier (S)	Connétable of St. Martin	
Deputy J.A. Martin (H)	Connétable of St. Saviour	
Deputy G.P. Southern (H)	Deputy of Grouville	
Deputy of St. Ouen	Deputy K.C. Lewis (S)	
Deputy J.A. Hilton (H)	Deputy T.A. Vallois (S)	
Deputy of Trinity	Deputy J.P.G. Baker (H)	
Deputy M. Tadier (B)	Deputy S.J. Pinel (C)	
Deputy T.M. Pitman (H)	Deputy of St. Mary	
Deputy E.J. Noel (L)	Deputy of St. Martin	
Deputy M.R. Higgins (H)	Deputy R.J. Rondel (H)	

Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.H. Young (B)				

The Greffier of the States (in the Chair):

The Assembly stands adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:27]