

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 20th JULY 2011

PUBLIC BUSINESS – Resumption	5
1. Draft Gambling (Jersey) Law 201- (P.100/2011)	5
1.1 Senator A.J.H. Maclean (The Minister for Economic Development):.....	5
1.1.1 Senator B.E. Shenton:.....	8
1.1.2 Deputy A.E. Jeune of St. Brelade:.....	8
1.1.3 Deputy K.C. Lewis of St. Saviour:.....	9
1.1.4 Deputy F.J. Hill of St. Martin:	9
1.1.5 Deputy T.M. Pitman of St. Helier:	9
1.1.6 Senator A. Breckon:	10
1.1.7 Deputy P.V.F. Le Claire of St. Helier:	11
1.1.8 The Very Reverend R.F. Key, B.A., The Dean of Jersey:.....	12
1.1.9 Deputy M. Tadier of St. Brelade:	12
1.1.10 Deputy J.A. Martin of St. Helier:.....	13
1.1.11 Senator A.J.H. Maclean:.....	14
Deputy C.F. Labey of Grouville (Chairman, Economic Affairs Scrutiny Panel):	18
1.2 Senator A.J.H. Maclean:	18
1.2.1 The Deputy of St. Mary:.....	18
1.2.2 Senator A.J.H. Maclean:	19
Mr. T.J. Le Cocq Q.C., H.M. Attorney General:	20
1.3 Senator A.J.H. Maclean:	20
1.3.1 Senator B.I. Le Marquand:.....	21
1.3.2 Connétable D.J. Murphy of Grouville:	21
1.3.3 Deputy A.E. Jeune:.....	21
The Attorney General:	21
1.3.4 Deputy P.V.F. Le Claire:	22
1.3.5 Deputy R.C. Duhamel of St. Saviour:	22
1.3.6 Senator F. du H. Le Gresley:.....	23
1.3.7 Senator T.J. Le Main:	23
1.3.8 Deputy M. Tadier:	23
1.3.9 Connétable P.F.M. Hanning of St. Saviour:	24
1.3.10 Senator A.J.H. Maclean:.....	25
1.4 Senator A.J.H. Maclean:	27
1.4.1 Deputy A.T. Dupre of St. Clement:.....	27
1.4.2 Deputy S. Power of St. Brelade:	27
1.4.3 Senator F. du H. Le Gresley:.....	27
1.4.4 Senator A.J.H. Maclean:	28
1.5 Senator A.J.H. Maclean:	29
1.5.1 The Connétable of St. Saviour:	30
1.5.2 Deputy S. Power:.....	30
1.5.3 Senator A.J.H. Maclean:	30

The Attorney General:	31
1.6 Senator A.J.H. Maclean:	32
1.7 Senator A.J.H. Maclean:	32
1.8 Senator A.J.H. Maclean:	32
1.8.1 Deputy A.E. Jeune:	32
1.8.2 Senator A.J.H. Maclean:	32
2. Ratification of the Agreement for the exchange of information relating to tax matters between the Government of Jersey and the Government of the Republic of Indonesia (P.101/2011)	34
2.1 Senator F.E. Cohen (Assistant Chief Minister - rapporteur):	34
2.1.1 Deputy P.J. Rondel of St. John:	35
2.1.2 Connétable A.S. Crowcroft of St. Helier:	35
2.1.3 Deputy R.G. Le Hérisier:	35
2.1.4 Senator F.E. Cohen:	35
3. Draft Medical Practitioners (Registration) (Amendment No. 4) (Jersey) Law 201- (P.106/2011)	36
3.1 Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):	36
3.1.1 Deputy A.E. Jeune:	38
3.1.2 Senator S.C. Ferguson:	38
3.1.3 Senator T.J. Le Main:	38
3.1.4 Deputy P.V.F. Le Claire:	38
3.1.5 Senator F. du H. Le Gresley:	39
3.1.6 Deputy I.J. Gorst of St. Clement:	40
3.1.7 Deputy R.C. Duhamel:	40
3.1.8 The Deputy of Trinity:	40
Deputy G.P. Southern of St. Helier (Chairman, Health, Social Security and Housing Scrutiny Panel):	42
3.2 The Deputy of Trinity:	43
3.2.1 Deputy S. Power:	43
3.2.2 Senator T.J. Le Main:	43
3.2.3 Deputy P.V.F. Le Claire:	44
3.2.4 Senator F. du H. Le Gresley:	44
3.2.5 Connétable D.W. Mezbourian of St. Lawrence:	44
3.5.6 The Deputy of Trinity:	45
3.6 The Deputy of Trinity:	45
3.6.1 Deputy P.V.F. Le Claire:	46
3.6.2 Connétable J.L.S. Gallichan of Trinity:	47
3.6.3 The Deputy of Trinity:	47
3.7 The Deputy of Trinity:	48
4. Draft Social Security (Amendment of Law No. 1) (Jersey) Regulations 201- (P.110/2011)	49
4.1 Deputy I.J. Gorst (The Minister for Social Security):	49
4.1.1 Deputy G.P. Southern:	52
4.1.2 Senator P.F.C. Ozouf:	54
LUNCHEON ADJOURNMENT PROPOSED	54
LUNCHEON ADJOURNMENT	54
4.1.3 Senator P.F. Routier:	55

4.1.4 Senator F. du H. Le Gresley:.....	55
4.1.5 Deputy I.J. Gorst:	56
Deputy G.P. Southern ((Chairman, Health, Social Security and Housing Scrutiny Panel):.....	57
4.2 Deputy I.J. Gorst:	57
4.3 Deputy I.J. Gorst:	57
4.3.1 Deputy G.P. Southern:.....	58
4.3.2 Deputy I.J. Gorst:	58
4.4 Deputy I.J. Gorst:	58
4.5 Deputy I.J. Gorst:	59
4.6 Draft Social Security (Amendment of Law No. 1) (Jersey) Regulations 201- (P.110/2011): amendment (P.110/2011 Amd.).....	59
4.6.1 Deputy G.P. Southern:.....	60
4.6.2 Deputy J.A. Martin:	60
4.6.3 Senator P.F.C. Ozouf:.....	61
4.6.4 Deputy J.M. Maçon of St. Saviour:.....	62
4.6.5 Deputy J.A. Hilton of St. Helier:.....	63
4.6.6 Senator A. Breckon:	63
4.6.7 Deputy M.R. Higgins of St. Helier:.....	64
4.6.8 Senator F. du H. Le Gresley:.....	64
4.6.9 Deputy I.J. Gorst:	66
4.6.10 Deputy A.K.F. Green of St. Helier:	66
4.6.11 Deputy T.A. Vallois of St. Saviour:.....	67
4.6.12 Deputy P.V.F. Le Claire:.....	68
4.6.13 Senator S.C. Ferguson:.....	69
4.6.14 The Deputy of St. Mary:.....	69
4.6.15 Deputy E.J. Noel of St. Lawrence:	71
4.6.16 Deputy M. Tadier:.....	71
4.6.17 Deputy T.M. Pitman:.....	72
4.6.18 Senator T.A. Le Sueur:.....	73
4.6.19 Deputy G.P. Southern:	73
4.7 Draft Social Security (Amendment of Law No. 1) (Jersey) Regulations 201- (P.110/2011) - resumption	76
4.7.1 Deputy I.J. Gorst:	76
4.7.2 Deputy G.P. Southern:.....	77
4.7.3 Deputy J.B. Fox of St. Helier:.....	77
4.7.4 Deputy M. Tadier:	77
4.7.5 Deputy I.J. Gorst:	77
4.8 Draft Social Security (Amendment of Law No. 1) (Jersey) Regulations 201- (P.110/2011): Amendment (P.110/2011 Amd.) - paragraph 4.....	78
4.8.1 Deputy G.P. Southern:.....	78
4.8.2 Senator P.F.C. Ozouf:.....	79
4.8.3 Senator S.C. Ferguson:	80
4.8.4 Deputy M. Tadier:	80
4.8.5 Deputy P.V.F. Le Claire:	81
4.8.6 Deputy A.E. Jeune:.....	82
4.8.7 Deputy M.R. Higgins:.....	82
4.8.8 Senator T.J. Le Main:	83
4.8.9 Deputy G.P. Southern:.....	84

4.9 Draft Social Security (Amendment of Law No. 1) (Jersey) Regulations 201- (P.110/2011) - resumption	85
4.9.1 Deputy I.J. Gorst:	86
4.10 Deputy I.J. Gorst:	86
4.10.1 Deputy G.P. Southern:	86
4.10.2 Senator P.F. Routier:	86
4.10.3 Deputy I.J. Gorst:	86
4.11 Deputy I.J. Gorst:	87
4.12 Deputy I.J. Gorst:	87
4.13 Deputy I .J. Gorst:	87
4.13.1 Deputy G.P. Southern:	87
4.13.2 Senator P.F.C. Ozouf:	87
4.13.3 Senator P.F. Routier:	87
4.13.4 Deputy P.V.F. Le Claire:	88
4.13.5 Deputy I.J. Gorst:	88
5. Draft Long-Term Care (Jersey) Law 201- (P.108/2011).....	89
5.1 Deputy I.J. Gorst (The Minister for Social Security):	89
5.1.1 Deputy D.J. De Sousa:	94
5.1.2 Senator B.E. Shenton:	94
5.1.3 Connétable K.P. Vibert of St. Ouen:	95
5.1.4 Deputy K.C. Lewis:	95
5.1.5 Senator A. Breckon:	95
5.1.6 Senator S.C. Ferguson:	98
5.1.7 Deputy P.V.F. Le Claire:	98
5.1.8 Connétable J. Gallichan of St. Mary:	99
ADJOURNMENT.....	102

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

[9:00]

PUBLIC BUSINESS – Resumption

1. Draft Gambling (Jersey) Law 201- (P.100/2011)

The Deputy Bailiff:

The Assembly now comes to P.100 - Draft Gambling (Jersey) Law 201- -lodged by the Minister for Economic Development, and I will ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Gambling (Jersey) Law 201-. A Law to restate and amend the law relating to gambling; to licence commercial provision of forms of gambling services; to regulate private and non-commercial gambling; to establish enforcement powers and provide for offences in relation to gambling; and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

The Deputy Bailiff:

Minister, do you wish to propose the principles?

1.1 Senator A.J.H. Maclean (The Minister for Economic Development):

Yes please. Just briefly before I begin, I would just mention to Members that we had intended 2 briefings on this Gambling Law, unfortunately other departments had pressing needs so we thought it reasonable to assist Education, Sport and Culture with their briefing and also Treasury and Resources. I make this mention because I am going to spend a little bit longer than I would normally do in order to give Members the necessary detail, but that is in the absence of the ability to provide the briefing. I therefore have great pleasure in rising to present this new Draft Gambling Law to the Assembly. It has been many years in the making and, as I am sure most Members will agree, it is long overdue. In fact when I was elected I recall that at my appointment to Economic Development this was the first issue that was passed to me. Some may view it as a hospital pass because not always are issues relating to gambling the most popular for politicians to have to deal with. Nevertheless, it does demonstrate it has taken a number of years to get to this point. During that time, the States have had to consider a number of changes to gambling legislation. The most significant advance of course was the approval of the Gambling Commission (Jersey) Law and the introduction of an independent professional regulator. However, other amendments have been tied to and necessarily limited by the constraints of the 1964 Gambling Law, which is the law we are seeking to update today. That law is now comprehensively out of date and clearly not fit for purpose. It is probably helpful if I quickly highlight some of the inadequacies in the present 1964 Law that this new draft law will seek to correct. The 1964 Law starts by stating that all gambling is illegal and then qualifies it by giving the power to the States to make certain types of gambling legal by regulation. This arrangement is back-to-front. I would be hard-pressed to find even the most committed anti-gambler suggesting in this day and age that any act of gambling should be considered an illegal act punishable by imprisonment. My final comment on the 1964 Law is that it treats a customer gambling in good faith in the same way as a licensed business, criminalising both if an infraction occurs. This is clearly wrong and needs to be remedied. This new Draft Gambling Law reverses the previous position and accepts that gambling is a lawful activity. It concentrates therefore not on the act of gambling *per se* but on the provision of gambling services, particularly by way of businesses. This is the area that needs regulation and supervision because it is importantly all about customer protection. Similarly, it should be governed by law and not regulation so that there is consistency across all types of gambling business. Although gambling will be legal, commercial gambling will remain a privilege and not become a right. This is because Article 6 specifically states that the Jersey Gambling Commission is not required to grant a licence or approve any particular type of gambling. The fact that there is no general right to gamble is an

important protection of the Commission's right to weigh-up and, if necessary, reject applications for commercial gambling that they are not satisfied with. To that end, much that was useful in the 1964 regulations have been retained, but used in a manner to assist the Gambling Commission with its role as licensing authority and supervisory body. Article 3 thus refers to types of gambling and provides references that the Commission can use to issue a licence, permit or approve as it deems necessary. Of particular value is the ability in 3(2)(e) to distinguish persons of particular ages, persons who have indicated that they wish to be prevented from gambling, persons suffering from any other specified vulnerability, as well as persons in particular countries or territories. This will give the Gambling Commission valuable powers to assist on appropriate levels of player protection that are currently not present. While the majority of existing licensees already have a voluntary system of self-exclusion, it is not universal, and it should be. All Jersey licensed gambling businesses should have to show how they protect the vulnerable and should have a system of self-exclusion to prove it. Similarly, the Commission need a power to ensure that the events of Black Friday, as it has become known, where 3 of the largest online poker sites were seized by the F.B.I. (Federal Bureau of Investigation), could never happen in Jersey. By allowing the Gambling Commission to specify that gambling cannot take place with persons in particular countries, including, but not limited to, the United States, this new law will both enhance and protect Jersey's international reputation. The main focus of the new law therefore is the commercial provision of gambling services to customers. Vitally, this new law gives the Gambling Commission the right to insist that a licensee co-operate with its examinations and investigations, but also reaches much further. For example, allowing the Commission, if ultimately called for, to issue a direction preventing individuals from holding particular positions in a business or being employed at all. These are strong powers but they are necessary ones in order to ensure that the Commission will have access to all necessary information relating to gambling business undertaken in and from the Island. Although all commercial gambling will be legal under licence; that does not mean that all forms of commercial gambling can or will be licensed.

[9:15]

The Commission must first consult, and then publish its policies, on what commercial gambling will be licensed and what conditions will normally be imposed on licences for different types of commercial gambling. In the event that the States has concerns about the Commission's licensing policies, it can by regulation impose specified conditions that the Commission must apply to the activity, and, if deemed necessary, it can ultimately prohibit the Commission from licensing specified activity. Members will note that I have not brought regulations to the Assembly with this law and it should be possible to rely on the law alone. However, the Commission has requested that a regulation be drafted to cover the granting of permits and approvals by the Gambling Commission for the commercial provision of gambling services to other commercial operators; a style of business, which is commonly known as business-to-business. The Commission intend to use such a regulation to govern and regulate the suppliers of software to remote gambling companies and also the suppliers of gaming machines. The Commission also wish to bring a specific regulation to govern the provision of non-commercial gambling services by clubs, societies and charities. A regulation specifically for social and charitable gambling would also be useful. This type of non-commercial gambling is rightly different from that offered by way of business and should not be subject or subjected to the level of reporting and due diligence that commercial operators are rightly subjected to. This indeed is a major problem with the current law because it treats both the same, and arguably subjects more onerous supervision to charitable gambling than to the commercial sector. This is not to say that the forthcoming charitable regime will be lax, but it should be proportionate to the level of stakes and prizes offered and the risk of failure. Likewise, applications, conditions and reporting criteria should be standardised and the existing disparate and confusing regime abolished. Finally, and similarly to the independent charitable sector, I believe the Channel Islands Lottery should be treated as a special case. It does not operate for profit, but

provides funding for important charitable causes. The governance and use of this money has not been reviewed in many years and I look forward to bringing forward proposals in due course that will both increase the level of good causes funding generated by the lottery, but also the areas where funding could be used in the future. That is a debate of course for another day but I think it important for Members to realise the difference in regime that is intended between the commercial sectors on the one hand and the charitable sectors on the other. Turning now to the fuller description of the Commission's proposed enforcement powers, it is important to note that these have been, in common with the model for the law generally, based on powers similar to those for the Jersey Financial Services Commission. This is a robust and modern model of regulatory supervision and has worked effectively in the financial services arena, and which lends itself well to use in this field as well. Should the States pass this law: the Jersey Gambling Commission will be able to require licensees and individuals suspected of unlawful gambling to provide information and answer questions; it will be able to enter and search business premises; it will be able to issue directions; and of course it will be able to revoke licences. Modern protections through appeal to the Royal Court are there to guard against over-zealous regulation, but the Commission may also go to court to apply for injunctions, remedial orders and orders for intervention in a gambling business, if the circumstances are serious enough to justify such action. The Jersey Gambling Commission may also, under specific conditions, exercise some of these powers to assist an overseas regulator. Perhaps the most important change in the enforcement armoury of the Commission is the power to make licensees to pay civil financial penalties for certain breaches, especially breaches of licence conditions. It is important to note that the link between the Commission's powers to compel a licensee to answer questions and the right to level a financial penalty, both are civil powers and can be dealt with by the Commission without recourse to court. These powers are necessarily and rightly kept distinct from criminal offences, which will still be prosecuted by the Law Officers in the normal way. This is an important step forward as it provides the middle ground missing in the current law between what might be an excessively severe prosecution at one end of the scale to doing nothing to stop minor infringements at the other. To ensure that a civil penalty is an effective deterrent, the cap is set at twice the profit made by the breach, or £5,000, whichever is the higher. Appeals can be made to the Royal Court against this and any other form of enforcement. Proceeds from civil penalties will go ordinarily to the States' Consolidated Fund, but there is a power for the Assembly to change this at a later date should it be considered worthwhile. There are a number of other significant changes from the existing law included in part 5; perhaps the greatest change is that gambling contracts will become enforceable. There is no logic as to why gambling services should not be governed by contract law in the way that all other services are. It is difficult to see how a person taking a risk on commodities is appreciably different from one who studies form and decides to back a horse, after all both wager and risk in the hope of reward, but one can have the outcome enforced by the courts while the other cannot. This does not make sense and should be changed. Two caveats from the 1964 Law are retained however, the first is that there is no enforcement of goods sold by lottery, which is designed to protect customers winning goods in good faith, while the other prevents using securities to settle the gambling debts. This prevents a security from being recklessly offered as a wager, but someone may still redeem a security in the normal way as a source of funds. The final important change is the closing of a potential loophole in Island law to ensure that Ponzi schemes - also known as chain gift schemes - are prohibited. If I may sum up and conclude: good law should encompass a broad range of opinion in order to win support and ensure compliance. This law will help the Island by improving its level of regulatory oversight; it will help the industry that it regulates by providing a clear and orderable framework in which they can undertake their businesses, and it will also help and protect the public. This law will allow the Jersey Gambling Commission to adhere to their core guiding principles, to ensure that gambling should be conducted responsibly and with safeguards necessary to protect children and vulnerable people, but it should be regulated in accordance with generally accepted international standards to prevent fraud, money laundering and other crime, and should not be permitted to be a source of crime, and that, where

offered, it should be verifiably fair to the consumer. I believe this law builds upon the excellent work already approved by this Assembly with the creation of the Jersey Gambling Commission. It is the last legislative change that the Assembly needs to approve and it would give the Commission the tools it needs to effectively deliver on its remit. This is what Members have called for and asked us to do and I am delighted to be in the position to present this much-needed modernising gambling legislation today. I commend the proposition to the Assembly.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** The principles are now open to debate and I call upon Senator Shenton.

1.1.1 Senator B.E. Shenton:

I hope the Minister for Social Security picked up that Ponzi schemes are now illegal. While I welcome this law, it is 7 years too late, and this does cause me quite a bit of concern. About 13 years ago, just to digress very shortly and very briefly, I was working with some clients that were picking up some of the new offshore gambling licences from Alderney and Gibraltar, and I wrote to the Alderney Greffe for a copy of the legislation, in those days you did not have the internet so you had to send a cheque off, and I wrote to the Policy and Resources Committee of the day to ask why Jersey was not going down the gambling route, and the reply I received very promptly from Policy and Resources was that Jersey was a high-class blue-chip finance centre and it did not want to undertake anything that might distract from that, and whereas Alderney had severe financial difficulties, we had money coming out of our ears, and we had no objection to letting them have a few crumbs off the table. How different 13 years makes when we are trying to get a few crumbs off Alderney's table. The reason I ask is a number of issues, there was a supplement about Malta in the paper yesterday and in the last 7 years the number of operators licensed in Malta grew from a handful to almost 290 with 400 licences between them. One of the reasons it says is Malta, being part of the E.U. (European Union) and the eurozone, also contributes to the decision-making process the operators go through when evaluating the country as a base for business. The fact that Malta is an E.U. Member State allows it to be at the heart of the European debate on the future of online gaming in Europe. In Malta, over 3,000 personnel are directly employed by offshore gaming with an estimated 2,500 indirectly employed, so if this does take off there are significant employment opportunities to be had. So while I welcome a piece of legislation that is 7 years too late, and I look forward to E.D.D.'s (Economic Development Department) next analysis of whether Betamax Video recorders will take off, what I would like to ask is what aspects of the law gives Jersey a competitive advantage to allow it to recover this lost ground; how does it combat the fact that we are outside the E.U., whereas being in the E.U. has a very distinct advantage; and does the Minister have concerns with regard to the speed that Jersey moves on new initiatives?

The Deputy Bailiff:

I call on Deputy Jeune.

1.1.2 Deputy A.E. Jeune of St. Brelade:

I do not have a particular problem with this law, obviously as others will say and have said, it is rather late in coming to the Assembly. Where I am slightly stuck is on Article 17 in relation to 17(2)(d), in which officers and agents of the Commission will be able to search premises, examine equipment, and so on. What other authority do they need; a search warrant from the police or the Connétable or the Bailiff? I am not sure, and I would like that clarified in the summing-up if the proposer would do that. Thank you.

The Deputy Bailiff:

The detailed discussion on the particular articles comes later but no doubt the proposer may deal with it now.

1.1.3 Deputy K.C. Lewis of St. Saviour:

Just an inquiry just to kick it off. It is my information that Channel Islands residents, the Jersey residents, are prohibited from engaging in the U.K. (United Kingdom) National Lottery and indeed Euro Millions, and that if somebody visited the U.K. to buy a ticket and returned to the Channel Islands the U.K. Lottery and indeed Euro Millions are not obliged in any way, shape or form to pay out. Does that work conversely? Is that still the case, and does that work conversely should a U.K. tourist buy a ticket in Jersey and return to the U.K., would they be able to claim?

1.1.4 Deputy F.J. Hill of St. Martin:

Members may remember a couple of years ago the E.D.C. (Economic Development Committee) brought forward I think 3 or 4 different propositions all to do with gambling, and what it was is all part and parcel of updating our laws. Again, as I said yesterday when I was trying to update our pothole laws, there are occasions where one feels that cash comes before care and of course today is an example where we are going to come forward with a piece of legislation, which obviously is to the benefit of the Island because we will get some licensing fees from it. So again that will not be any reason for me to be opposing it because I welcome it, and I think we all should welcome it because what we are doing is bringing an old piece of legislation into the modern framework with the checks and balances. We introduced the Gambling Commission 2 years ago and again I am not a gambler but at the same time I do not think I have the right to tell other people what they do with their time and their money, providing it is within the legal framework, and this is what we are having here today. Over the years as a Member I have brought forward a number of issues, which again were quite difficult at the time and when we look back we say: "Well why was it so difficult at the time?" I can remember the difficulty I had of getting the bookies at Les Landes to operate on a Sunday; you could bet on the tote up there but you could not have the bookie. Also, you could not have a Crown and Anchor up there on a Sunday and you could not drink alcohol on a Sunday up there.

[9:30]

I can remember those laws some years ago, how difficult it was, I brought them through as amendments, and now would you go to Les Landes and expect not to see a bookie anymore, and has the world fallen apart? No. So what we have here is a piece of legislation, which allows people to do what they choose to within a legal framework. There are a couple of other issues I think... I cannot see the Constable of Grouville here. One particular piece of legislation, which will be helpful I think - I know Senator Le Main may do... If this piece of legislation will allow a bookie, if he wants to, to go up to a rugby club on a Saturday afternoon, and, if the punters wish to have a bet on who is going to have the first try or how many tries we are going to get, then again what is wrong with it? People, acting responsible, and this piece of legislation will do so. There is an issue here, which maybe I could ask the Minister to enlarge on, and that is the bit about having what we call commonsense gambling; introducing children, if they are going to gamble - like they are going to drink - introduce them in a way of doing so, and I am mindful of the Gorey Fête where we do have the Crown and Anchor there, and you can see the children there with their parents wanting to put their money on; at the moment I gather it is illegal, but I gather with this piece of legislation it will not be illegal, so maybe I could just get a clarification from the Minister, but all in all I welcome this piece of legislation, I would think other Members may do so as well, but certainly I will be supporting it.

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

Just a few points, as I might wish to speak later. Senator Shenton is right - rarely for him I might say - that this law is very late, but I do not think in fairness you can attribute all of that to Senator Maclean. I mean he is to blame for a lot of things, but not this one, so I must jump to his defence slightly there. But Senator Shenton also made really appropriate mention of Malta and the potential

for job opportunities. I wonder if it is mentioning that, certainly when I was there - and not because I was there - Malta also had a booming casino as I recall, and I just wonder if that is another avenue the Minister is going to be reconsidering for potential for our employment. Is this a first tentative toe in the water before going down this route? Obviously I do not gamble because I am a good boy, but I would like to know if that is where the Minister is heading.

1.1.6 Senator A. Breckon:

The Minister mentioned in his introduction about the Gambling Control Committee- and Senator Le Main will remember this certainly, and the Connétable of St. Clement, of many years ago - it was about 2001/2002 when we looked at all these things, and I can tell the House that this is a modernisation process because the whole thing was a nightmare: it was a nightmare. Although it was called the Gambling Control Committee, if you have a Sky Television and a remote control in your own lounge, I mean you can put a bet on golf, on tennis, on virtually anything you want, we could not police this law at all and that was said 10, 11, 12 years ago, so this is reality. This is a reality check. At the time we said: "Well what do we do?" Then the discussion was around the modernisation process and at the time there was some big businesses - and I mean big businesses, household names - looking to settle somewhere and Alderney was already picking up, and indeed picked up some of the business, as did Malta and Gibraltar. I think in the Isle of Man - the Minister for Treasury and Resources is not here, but I have seen a Treasury report from the Isle of Man about 6 months ago - I think they have 600 people in the Isle of Man who work in the gaming industry and it is not just about putting bets on, it is about the technical backup to make the internet things work and things like that. At the time, the Policy and Resources Committee, it was then... I know what Senator Shenton has just said, because the Policy and Resources Committee of the day had said: "Well hang on, let us look at this" and they looked at it and looked at it and looked at it and did not in fact do anything at the time, and that is what these businesses went from the door and it was a case of we said to them: "We cannot do this, we cannot accommodate you." But, having said that, these things are going on elsewhere so I think where the Minister for Economic Development is coming from is it is business that Jersey can have but it needs to be well-regulated and we have a Gambling Commission, which has been modelled really on the Alderney model. The other thing is we also at the time had a Gambling Control Committee along with Guernsey and the Isle of Man, and Senator Le Main will remember this, we had responsibility for the Channel Islands Lottery, and again these regulations were a nightmare. The regulations talked about what size the tickets were, what was on them. I remember we had one meeting, the Channel Islands - Guernsey, Jersey, Alderney, and probably Sark were there as well I think - about what was going to be on the Christmas lottery tickets, whether it was going to be Father Christmas or a tree or whether it was going to be ... This was the level of discussion, and we had to do that because of the regulations which said how big the ticket was and what was on it, and then somebody was complaining about scratch cards, about the dust that comes with them, something like that. The other thing where there was an issue was if say a school - any school, a P.T.A. (Parent Teacher Association) - wanted to run a raffle, there was a bundle of red tape that they needed to do to get a permit to run a raffle of some description in the school and this generated a lot of unnecessary paperwork if it was a one-off or if they were going to have a game of Bingo or something, I mean it was ... and these laws were from another era and when it came in the early 1960s it of course was the start of the betting shops and some of this was allied to this, but again there was certain things about what the window looked like and these again - as Senator Le Main will remember - were all the regulations that had to be moved, but it did take up a lot of time. So although Members might have a personal view about gambling, this is not just about gambling, it is about a modernisation of laws and regulations that are well and truly past their sell-by date, and I know, as Deputy Trevor Pitman has just said, this is not all on the watch of the present Minister for Economic Development, some of this stuff has been around for a long time. It has been a case of really that nobody has picked it up and done anything and the modernisation process is coming from 2 directions, as I see it; one is that we need to do it to get rid of this, the other things that are there that are not really

either necessary or policeable; and the other thing is it is a modernisation that recognises that there is a business element, which is going on across the world really where Jersey could have some share of the business, be it the back office software, the technology hosting, or the front office stuff. We have in place a Commission, which will regulate that, so for these reasons I hope that Members will support it, because, as the Deputy of St. Martin mentioned, years ago even the local racetrack at Les Landes had difficulties about rules and regulations that were in the way about people's leisure time on a Sunday, and again things have changed and, as the Deputy of St. Martin says, you would just expect it now, you would not have regulations anywhere that would stop people doing things. But, having said that, it needs to be within the framework, and this is the right framework. For that reason, I hope Members will support it.

The Deputy Bailiff:

I call on Deputy Le Claire.

1.1.7 Deputy P.V.F. Le Claire of St. Helier:

Good morning. I would like to speak in support of the law. I would like to congratulate the Minister. He set out clearly the rationale behind the law and he did so in a very comprehensive way, and I would like to congratulate him on his speech. As he says, to continue criminalising all acts of gambling, except where exemptions have been introduced, may have served the last century and the morals of the last century, but they certainly will not serve us in this century. There have been some criticisms about the time it has taken for this law to come to this Assembly and Senator Shenton has asked how will this law help us become more competitive than other jurisdictions? I am not a gambling expert, I am not a legal expert, but I am experienced in one thing, and that is Jersey and the ways of Jersey. In my experience of the ways of Jersey, if you give a Jersey person an opportunity then they will take it, and I think what this does is this gives companies the opportunity to enter into a competitive market in a comprehensive way, and I think the innovation will come from those companies; they will come from the Jersey people, as they came in respect to recent success stories: Play.com; Worldpay, where we were short-sighted in that instance, we would not give them ... I think they wanted 30 or 40 business licences to introduce their Worldpay business in Jersey, we said no, and that was created on the back of a napkin I believe in one of the town's restaurants over a lunch-hour period, and because they were not granted those 30 business licences, they went to the U.K. and we missed that opportunity. This Minister is recognising those previous mistakes and he is doing his best in a comprehensive and certainly a rapid way, as far as Jersey is concerned, to remove those issues. So I am congratulating him and I am giving my support to him and his department in bringing forward a competitive playing field where Jersey people and the innovation of people in Jersey will help us compete in all areas where it is possible. This is exactly what we need; low-footprint, high-value markets where we have limited ... certainly we are going to have impacts in terms of jobs and in terms of population, but we are not asking everybody that competes or engages in betting to our Island's advantage to come to Jersey and live in Jersey to do that. One last thing I would like to ask, before sitting down, is ... sorry, just at the tail-end of that I wrote this down, I remember when I was a child how all of the U.K. people used to come over from Sealink and they used to praise Jersey's lottery and the opportunity to win £50,000 and how wonderful it all was and tear your ticket in half, and here is half for you and here is half for me, and, with my mother and father being involved in the tourism industry, we saw first-hand how much the tourists appreciated the opportunity to be involved in something that could change their lives. Since that time, the Jersey Lottery has been far overtaken by the U.K.'s innovations, and we know the issues of those things and we know the impacts that are going to befall the Association of Jersey Charities when those lotteries perhaps start to lose their market share or we introduce new competition. I am wondering therefore if, as the Minister has outlined, that when there is an opportunity in the future for the proceeds of these fines to be placed within the Consolidated Fund, whether or not there might also be consideration at that time, when he brings those regulations or whatever mechanism that is going to be, whether there is an opportunity to set

aside a percentage of those fines towards the Association of Jersey Charities, because they have benefited in the past from proceeds from the lottery and I feel that this would give them perhaps some source of funding in an uncertain world.

1.1.8 The Very Reverend R.F. Key, B.A., The Dean of Jersey:

Members may be surprised that I welcome the principles of this law because it seems to me that we do have to have 21st century regulation and this is an honest attempt to do that. My concern - and the Minister will not be surprised at this - is I wonder if he would expand in his summing-up on the protection for the vulnerable, which was my concern when we raised this subject before. We know who eventually wins out of gambling because the Rolls-Royces are not owned by the average punter; they are owned by the proprietors of the betting establishments. Andrew Dilnot, who recently produced the *Dilnot Commission Report* on the financing of care for the elderly in the U.K. - the renowned Oxford academic - once described the lottery in England as the best means since the original poll tax of the Middle Ages of redistributing wealth from the poor to the rich, because it tends to be that the lower income folk spend a greater proportion of their income on gambling. At least in the U.K. - I am sure it is wonderfully different here - not many of them go to Sadler's Wells Opera and other things that the lottery may well support. So my concern is the protection of the vulnerable. I am just a few seats along here from the Minister for Social Security, and his presence reminds me that, if we have at the lower level folks who are receiving benefits to keep their children fed and clothed, going to gambling establishments and squandering that money that should be used for the welfare of their children, without any protection from themselves, or more importantly without that protection for their children, then we are not doing our society any favours. So, while entirely supporting 21st century regulation, I hope we may have a little expansion on the principles of protection for the vulnerable. Thank you.

[9:45]

1.1.9 Deputy M. Tadier of St. Brelade:

The Deputy of St. Martin I think talked about the commonsense gambling or using common sense when gambling, and the 2 seem ... it seems to be an oxymoron that expression, one could argue at a basic level. Nonetheless, I think the underlying sentiment is correct because in order to gamble in an informed way you have to have information. Now I have asked on occasions in the past about what information is available to gamblers, and it is a question I will be asking the Minister, or the Assistant Minister for Economic Development, and I can perhaps pass them a note as well in case they do not hear. The question is to do with expectancy, so when you go to a fruit machine - if you are unfortunate enough to play on fruit machines - you will know that there is a sign there, which says there is a 72 per cent or 78 per cent payout on this machine. The problem is, with other forms of gambling, it is fine to regulate these things, it is fine to issue licences essentially to print money, which is what we are doing, and of course they are legitimate, they pay taxes hopefully if they are Jersey-registered. But the problem is, the punter does not know when he goes to play on the roulette table, he does not know when he goes to play on the Crown and Anchor table, what the expectancy is; that is to say what can you expect to win if you put £100 down? If you play roulette, for example, you know that if you are playing on the outside on the odds and evens, for every £100 you spend you can expect to lose £1.35, so the margins are there, somebody can make an informed choice. If you are betting on the numbers, the expectancy is slightly worse and you can expect to lose roughly £3.50 for every £100 you bet, and that is what the croupier, that is what the capitalist will take for his profit. But when we play Crown and Anchor, for example, when you are playing other games, which we are looking at regulating here, when you go to the bookies you are not told what the expectancy is. So you are told what the odds are, you bet on a horse at 6 to one, you know that you are going to get £6 back for every £1 you have put on in profit, but you do not know what the odds are of that horse winning, so I would like the Minister to say what safeguards are in place here. I do not believe there are any safeguards in place, for example, when somebody plays Crown

and Anchor. What I would like the Minister to do is to give an undertaking to look at this area so that when somebody plays Crown and Anchor they know exactly what they are likely to lose statistically and that should be emblazoned on the stall in the same way that it is on a fruit machine. Some people seem to be looking at me incredulously, but this is best practice. If people are to make informed decisions about gambling ... let us give an example, if I say to any Member in here: "I am going to flip a coin, it is £1 to play a game, and every time I flip the coin I am going to give you 50 pence back." I do not think there would be many people taking up that game, or certainly if they did they would not be sitting there playing it all night because it is logical that you are going to lose your money very quickly. If on the other hand I say: "Every time we flip the coin I am going to give you 99 pence back or if you win I will give you £1.50 but you have to pay £2 to win," the dynamics change, and of course, if I said: "Every time you win I am going to give you £2 back and it is only £1 to play," that is not gambling, you would have to do it logically. This is the kind of information that people need to be doing, because we are dealing with very vulnerable people, especially those who have a propensity towards gambling - an addictive personality - they can simply sit there playing on a fruit machine, playing on a game, where the odds are stacked against them, to the point where it may be extortionate, so that what I am saying is there is a difference between a game, which has a margin of perhaps one, 2 per cent, 5 per cent, 10 per cent, which is a reasonable amount for one to pay for one's pleasure at a table or at a machine, but there is a massive difference between somebody profiteering and being extortionate. I am concerned that there are not safeguards in this law and that there do need to be further safeguards. Some Members seem to be perplexed by that comment, but these are the realities for people when they are gambling that there is a difference between what is legitimate gaming where you can expect a legitimate return on your money, and there is a difference between that and extortion, so I would like the Minister to comment on those points in summing-up.

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

Just briefly. I am glad at last this law has come to the House. I have supported it all the way through. I echo a lot of the ... I will not say much. I echo a lot of the comments of Deputy Le Claire. Someone who has recently just been to London- and I respect everything the Dean says - but I do know in North London there are some very small performing arts, dancing, that the lottery do give their money to, and these are in very, very poor places, and these little schools would not be there if it was not for the lottery money. So ... and, yes, if you are on low income and you might put your £1 a week, and you might become a millionaire, it is something to hope for. I mean, you know, is it better to save it up and buy a packet of cigarettes? I am slightly amazed ... well, probably not, you know, that is just going to go up in smoke. We do not have anything - I listened to the Deputy behind me - we do not have anything at the moment to protect the vulnerable. We have a very small tight society over here and the people who run ... just let us say betting shops at the moment know the people who have a problem; know the people who get their wage packet on a Friday and they may go out of there with treble some weeks, and other weeks, an hour later, they are crying in their pint, because they probably left enough for a pint up the road, and they are frightened to go home to face the wife. It happens now. But we need it regulated and, if anyone could tell me the odds of a horse winning, against the odds of it being 100 to one or 2 to one favourite, I would put all my money on it tomorrow, because it is not possible. I mean I do like the odd flutter and I normally go on family names and so does my dad and things like that. Sometimes we are lucky, sometimes we are not, I do not have a problem, I obviously still have a problem when I lose, but I only ever ... it is a couple of pounds here and a couple of pounds there. But to know what the odds are is ... that is why I think people were looking at the Deputy incredulously, as he says, it is not possible. Most people should only bet what they can afford to lose all the time and many people would never, for moral reasons, go and have a bet. I know people who will not even have a bet on the lottery, will not take a lottery ticket that is free, because of moral issues. That does not mean that will stop gambling. So I applaud the Minister for bringing this at long last, he has my full support, and I hope he gets the full support. I know he will not get the full support

because there are a couple of people in here on moral grounds will not vote for it, but it is better to what we have; we have nothing at the moment. Thank you.

Deputy M. Tadier:

Can I offer a point of clarification? It is just to say that there is a difference clearly between horses, where the outcomes are not known, and games such as roulette, blackjack and Crown and Anchor, where there is a statistical certainty of outcomes and that is what I am referring to; that can easily be printed.

The Deputy Bailiff:

Does any other member wish to speak? Then I call on the Minister to reply.

1.1.11 Senator A.J.H. Maclean:

I would like to thank all Members who have contributed and spoken. I will seek to address the key points that have been raised. Senator Shenton was the first to rise with some slightly negative comments about the value of this Gambling Law modernisation, which is exactly what it is. In fact he was talking more about the online gambling industry, and of course this Assembly has already passed the Online Gambling Regulations to allow that industry some months ago. This of course is modernising the gambling legislation as a whole and providing protections for the Commission. So he was slightly on the wrong track there. But I will just touch on a couple of other points that he raised, because they are important in the wider scheme of things. There was a mention of Malta. Yes, of course Malta had an advantage in the past in the area of online gaming, they had and achieved what one might describe as first-mover advantage, but the Senator made a comment about the fact that they are in the E.U., we are not, therefore we are going to be disadvantaged. Well in fact the world has moved on and Malta is seeing that companies now are moving to national licensing schemes and as such any advantages there are diminishing rapidly. I can tell the Senator and Members that we have had approaches from licensees in Malta, now that we have an online gambling regime here, to relocate to Jersey for the many advantages that Jersey offers in this area: our excellent professional services; data centres; location and superb law, is very attractive to many organisations. So, yes, we are late, we are late in terms of modernising this Gambling Law, which is needed for better and clearer protection for locals, and also to give the necessary powers to the Gambling Commission, which is there to do exactly that, to properly regulate and supervise the industry that already exists in the Island, never mind the new opportunities that have been opened up with online gaming. It is about creation of jobs, it is about additional revenue, and it is about leveraging our existing professional services within the Island. So there is an opportunity still to be had for Jersey and I am absolutely convinced and very pleased to see a report published recently in a well-known international magazine on e-gaming that Jersey is highly regarded and deemed to be by the professionals in the industry the place for the future, so I think we have good opportunities still to come. I will just cover, if I may, one final point by Senator Shenton about whether I am concerned about our speed to market. I am always concerned about speed to market, it is key competitive advantage in all fields, I mentioned it yesterday in the Security Interests Law, we must ensure that we are as quick as possible in terms of bringing legislation forward in order to create confidence and give us advantages against our competitors, and we are continuing to move to try and improve in that area. Deputy Jeune asked about searching and in particular Article 17: we will do the articles in due course, but the answer to her question about permissions for the ability to search is no, we do not need ... or the Gambling Commission would not need a search warrant because they would be searching a licensed business premises, and so they would have powers under the law to do that. Deputy Lewis asked about ... this is a question that comes up quite frequently and has quite a bit of interest within the public arena, the U.K. National Lottery; to be absolutely clear, Jersey residents can buy lottery tickets in the U.K. for the U.K. National Lottery, and they can claim prizes if they are lucky enough to win. Where there is an area that there is a problem and that is the purchase of U.K. National Lottery tickets online. If they are purchased

online and they win then, no, they cannot claim, and that is a point that Members should bear in mind and members of the public as well. For any further details, I would direct Members or members of the public as well to the Jersey Gambling Commission; they can clarify the exact position. The Deputy of St. Martin raised a couple of points. I think his example of Gorey Fête and Crown and Anchor, it is a point that has concerned him for some time, I know he has had discussions with the Gambling Commission. This new law will help to improve the position, it will give the Gambling Commission the ability to set terms and indeed allow bookmakers to operate legally from fêtes, such as the Gorey Fête. Clearly the Gambling Commission is concerned that it takes a commonsense approach; it does not want to see - which has been a problem in the past - these events totally unregulated where children have access to gambling, but equally there has to be a commonsense approach and the Gambling Commission will provide supplementary conditions to events such as charitable events and fêtes where that will be legalised but properly regulated; and that is the key, it is about proper regulation. It is also about, I might add - and I have touched on it, that - the charitable third sector has reduced bureaucracy, and that feeds in, in part, to the question. Deputy Pitman asked about casinos. There is no intention to introduce casinos in Jersey; that will very much be a matter for the Gambling Commission in due course. If new gambling opportunities are presented, they would have to consult and assess as to whether or not that was an opportunity, but I see no likelihood of a casino being introduced into Jersey, it has been an issue that has been discussed for many, many decades; not even years, but decades. This is about improving our gambling legislation and ensuring proper protection. I thank Senator Breckon for his comments and support. Yes, he was absolutely right; it is about the modernisation of outdated legislation. I also thank Deputy Le Claire for his very kind words. He asked in particular about the lottery and he made very relevant comments about the value of Channel Islands Lottery to tourists many years ago, obviously the prize money is not as exciting as U.K. National Lottery now, and that is one of the reasons we have seen a dip in sales, particularly in the summer, not perform quite as well.

[10:00]

But his main question was about the revenue to the Association of Jersey Charities that does get the proceeds from the lottery, the Jersey lottery element. On average, the Association of Jersey Charities has been getting between £300,000 and £400,000 a year and we hope that will be maintained, in fact we hope by the proposed changes to the Channel Islands Lottery and the Jersey element in particular that the Association will get that revenue or more in the future. The particular point about fines that the Deputy made as to whether or not fines that are levied could ... some of the proceeds that are earmarked for the Consolidated Fund, whether they could go to the Association. That would be a matter for this Assembly to consider and a regulation would need to be brought, so the law is stating at the moment that any fines go to the Consolidated Fund. If a Member wished to bring forward a proposition to suggest some of those fines go to the Association of Jersey Charities that would be a matter for this Assembly to consider in due course. The Dean raised quite rightly - and I would expect nothing less from him - concerns about protection for vulnerable people. I would describe it as young and vulnerable, because young people are clearly very important in this area, and the law does add protections that did not exist before, and that is really important. It has been important from my point of view from the very beginning. There have been discussions with Health and Social Services in terms of the U.K. link help lines that are available at the moment, but bringing that on-Island so there is on-Island support in the future. We also have, and set up under the Gambling Commission Law, the Social Responsibility Fund: the intention there is that licensed operators in the Island will voluntarily contribute to the Social Responsibility Fund and that fund will be used to provide additional assistance to vulnerable people within the Island, and if the voluntary route does not work, we have the ability within the law to impose charges, levies, to licensed operators in the Island to ensure that the Social Responsibility Fund has the appropriate level of funding to protect people within Jersey. Therefore the protection is very much in the law, as it rightly should be. Deputy Tadier asked a somewhat curious question

about betting being clear and he was concerned about wanting more detail about how you would win - or how much you would lose, more to the point - and I think quite simply, and I think Deputy Martin raised the point, it is 'buyer beware.' If you are going to gamble and you are going to put so much money on, that is the maximum amount you will lose. You may well win some but you have to decide as a consumer how much you are going to risk; it is down to the individual to decide that. I think Deputy Martin, in summary, who was very supportive - and I thank her for her support in this area - she pointed out she likes a flutter. I do not know whether she thinks that this particular law going through is a good gamble or not, but nevertheless it is very difficult. She pointed out again the difficulties Deputy Tadier would have in terms of assessing what he was asking, his question was not particularly clear, but I thank her for her support. I thank other Members for their support. I think and hope I have covered all the questions that have been raised. I do believe this is a step in the right direction, a modern appropriate law for Jersey. I maintain the proposition.

Deputy R.G. Le Hérissier of St. Saviour:

On a point of clarification, could I ask ... the Minister mentioned that the 'vulnerable fund' would deal with people on the Island, but of course it is in the very nature of e-gambling that it is the world, which is our customer base. How do you deal with the broader issue?

Senator A.J.H. Maclean:

The Deputy is right, the Social Responsibility Fund however is specifically for people within Jersey. We are interested in doing what we can to ensure vulnerable local people are protected. In the wider scale, the Gambling Commission are members of and attend national and international best practice conferences and ensure that Jersey meets international best standards for the protection of ... and that is the core principles of the Gambling Commission in Jersey and gambling commissions around the world, to protect people worldwide.

Deputy D.J.A. Wimberley of St. Mary:

Could I ask a point of clarification on the Minister's response to what the Dean said?

The Deputy Bailiff:

As long as it is not a speech, Deputy.

The Deputy of St. Mary:

No. Thank you. It is just that the Minister talked about protection is within the law and I am concerned that the best form of protection is obviously full public consultation and the report says that in Article 6 the Gambling Commission will only permit those gambling activities for which ...

The Deputy Bailiff:

No, Deputy, I am sorry to stop, you are not asking the Minister to clarify anything he has said so far. You must put directly what he has said in this Assembly this morning that you want clarified, because otherwise you are making a speech and you should have made that earlier on. Deputy Tadier.

Deputy M. Tadier:

Mine is a point of clarification. It is clear from the Minister's response that he did not understand the point I was making, which is, for example, on page 8 in the report there is a ... it says that gambling should be verifiably fair to consumers of those services. Now what I am asking ... what I have asked the Minister is that, for example, with fruit machines there is a payout on it, and they are legally obliged to have the payout, which usually says 78 per cent. I am asking the Minister with games such as Crown and Anchor, blackjack, roulette, *et cetera*, which have definite statistical payouts, which can easily be Googled, you know exactly what the payout or the expectancy statistically is likely to be. So what I am asking the Minister why, if we are putting it

on fruit machines, can we not do this for other games so that people can gamble in an informed way. This is not about ...

The Deputy Bailiff:

Deputy, thank you. You did make those points. Minister, you did not quite address them, do you wish to address them or not?

Senator A.J.H. Maclean:

Just very briefly, the Deputy is referring to fixed-odd betting terminals, which are obviously computerised electronic machines. Yes, there are statistical levels in terms of payouts, which are higher than 78 per cent; it is closer to about 90 per cent. But when you are dealing with Crown and Anchor it is almost impossible, it is not a computerised game, there are statistics that are available, but they would not typically be published, certainly not at the point of consumption is more to the point.

The Deputy Bailiff:

The question, Minister, was whether or not you were going to make any ... look into the protection of gamblers by making this information available. I think that was the point the Deputy ...

Senator A.J.H. Maclean:

Thank you for that clarification. On that point, it is a matter for the Jersey Gambling Commission, they are there to regulate. If the Deputy is concerned about this particular area I would recommend that he contact the Commission, raise these points, and I am sure they will consider them.

The Deputy Bailiff:

Very well. The principles are proposed. All Members in favour of adopting them ... The appel is called for. I invite Members to return to their seats. The vote is on whether or not to adopt the principles of the Gambling (Jersey) Law and I ask the Greffier to open the voting.

POUR: 40		CONTRE: 5		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy R.C. Duhamel (S)		
Senator P.F. Routier		Deputy J.A. Hilton (H)		
Senator P.F.C. Ozouf		Deputy of St. John		
Senator T.J. Le Main		Deputy M. Tadier (B)		
Senator B.E. Shenton		Deputy of St. Mary		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy of St. Martin				
Deputy R.G. Le Hérissier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				

Deputy of Grouville				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

The chairman of the Economic Affairs Scrutiny Panel, do you wish to scrutinise this piece of legislation?

Deputy C.F. Labey of Grouville (Chairman, Economic Affairs Scrutiny Panel):

No, Sir.

The Deputy Bailiff:

Then we turn to the examination of the articles. Minister, how do you wish to deal with this?

1.2 Senator A.J.H. Maclean:

If I can, I will take them in parts. Part 1, Articles 1 to 6 to start with, if I may. Part 1 deals with the interpretation and application of the Law. Article 1 is simply the interpretation provision. Article 2 defines the core concept of the gambling service. The States can use regulations if needed to place activities within or outside the definition of facilitating gambling. Article 3 sets out the various ways in which types of gambling, and so types of service and licence, can be distinguished from each other. These include the forms of gambling, for example licensed betting offices, gaming or lottery. Importantly, the means of distinguishing also include the age of persons involved, which means appropriate provisions can be made for limiting young people’s involvement in various forms of gambling, whether they wish to be prevented from gambling, and also by territory or jurisdiction. These are very important additional protections. Article 4 provides definitions of a principal person and an associate. Article 5 excludes from the scope of the law any private gambling unless expressly included and disposals by lot under a legal requirement, it also excludes exempt finance business. Article 6 makes explicit that, despite gambling itself ceasing to be an offence, and private gambling being generally free of regulation, there remains no general right to gamble. The Commission is separately obliged under Article 4 of the Commission Law to follow the guiding principles that gambling should be conducted with safeguards for the young and the vulnerable so as to avoid money laundering and other crime and with fairness to customers being a key facet. I propose part 1, Articles 1 to 6.

The Deputy Bailiff:

Articles 1 to 6 are proposed. They are seconded. **[Seconded]** Does any Member wish to speak on Articles 1 to 6? The Deputy of St. Mary.

1.2.1 The Deputy of St. Mary:

What puzzles me about Article 6 is that in the text of the report in the section headed Social Responsibility on page 10, which of course was what the Dean was speaking about... I think the best thing is if I read out what it says: "Article 6 of the draft law", which is what we are about to approve or not: "provides that there is no general right to gamble, and this is an important protection for the Commission in exercising its duty to only permit those gambling activities for which it has undergone a public consultation exercise and which it considers will operate in compliance with its guiding principles." My concern is the "for which it has undergone a public consultation exercise". That is of course a main way of protecting the public from abuse. It was promised by the Minister that in regulations brought forward there would be public consultation on any new forms of gambling, certainly online gaming, and yet when I look at Article 6 there is no mention of consultation. So the report says that this provides the protection that there will be public consultation when any new gambling activity is permitted, and on page 5 of the report we see that the Gambling Commission will wait until existing gambling activities have bedded-down before they go for any new ones, before they start permitting new ones. I have downstairs had a look through the law for the word "consultation"; it does not appear anywhere, and so I need the ... and this is why I voted against, by the way, the principles, because I was not assured on this point, and I would like the Minister to explain how consultation is bedded into this law.

The Deputy Bailiff:

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

1.2.2 Senator A.J.H. Maclean:

There has been consultation in the broader sense to date. There has been a Green Paper on gambling, which informed much of the development of this particular Law, and indeed the public views on areas of gambling were taken into consideration in the formulation of the Law. So the Deputy refers to codes of practice, in fact again I think he is conflating codes of practice in relation to the introduction of licences for online gaming where codes of practice will be developed by the Jersey Gambling Commission, they will be consulted on, they will be published before any such licences for online gaming operators are authorised and put in place. This is clearly not the case; here we are talking about existing gambling activities, it is not new gambling as the Deputy was referring to. I should emphasise to Members that the Jersey Gambling Commission operate best practice to international standards and contained in this Law is far greater protection than there ever existed before, certainly in the 1964 Law that was there before. Any new forms of gambling in the future will be consulted on. I think the main thrust of the question from the Deputy is how that would happen. That is a matter for the Gambling Commission to consult in a public, open and transparent fashion.

The Deputy of St. Mary:

Can I ask a point of clarification on that: is the Minister saying that the Gambling Commission will do this but they are not legally obliged to consult on new forms of gambling before they are licensed and the whole process begins?

Senator A.J.H. Maclean:

The Gambling Commission have an obligation to consult and they will do so, and the Gambling Commission also can decide any form of gambling, to accept or not, as the case may be, within the law they have the ability to refuse particular applications for new forms of gambling.

[10:15]

The Deputy of St. Mary:

I have to ask again, the Minister has just told the House that the Gambling Commission has an obligation to consult; where is this obligation stated in law, and maybe he will have to ask the Attorney General?

Senator A.J.H. Maclean:

The Gambling Commission must have a policy and it must have a published policy and it must consult on any new forms of gambling that is going to be introduced; that is an open and public forum. I do not know if the Attorney General wants to add to that.

The Deputy Bailiff:

Attorney, will you help the Assembly on what the general purpose of Article 6 is?

Mr. T.J. Le Cocq Q.C., H.M. Attorney General:

Perhaps I could refer to the Gambling Commission (Jersey) Law passed by this Assembly and Article 6 of that, which provides: “The Minister may by Order require the Commission to consult in the specified manner before it approves of any code of conduct.” So there appears to be the ability of the Minister to require consultation by the Commission before any code of conduct relating to gambling is approved.

Senator A.J.H. Maclean:

Which, just to clarify for the Deputy, I have already undertaken with regard to the online gambling and will be the case, as I have said, for any new forms of gambling.

The Deputy Bailiff:

All those Members in favour of adopting Articles 1 to 6 kindly show. Those against. The articles are adopted. Minister, do you wish to propose part 2?

1.3 Senator A.J.H. Maclean:

Yes. Part 2, Articles 7 to 22 if I may. Articles 7 to 22 deal with commercial gambling as the main focus of the regulation under the Law. Article 7 defines commercial gambling as where a gambling service is provided by at least one person by way of business. Article 8 provides the core prohibition of providing a commercial gambling service from Jersey without a licence, similar to prohibitions of providing financial services without registration in other legislation, for example. Article 9 requires the Commission to consult on and publish its policies on what types of commercial gambling will be licensed, and what standard conditions will normally be imposed on licences for different types of commercial gambling. Article 10 allows the States, by regulations, to prohibit the Commission from licensing any type of commercial gambling specified in the regulations, or grant a licence only if it imposes specified conditions, or can provide that a type of gambling is prohibited unless expressly allowed. Article 11 provides for applications to be made for licences for commercial gambling. Article 12 provides the minimum criteria that must be met for the grant of a licence. Vitaly, it also mandates the Commission to ensure the grant of a licence will not be harmful to the integrity and reputation of Jersey in gambling, commercial or financial matters. This is a key defence. The protection in 12(4)(a) that each customer’s funds are separately recorded from each other, and the funds of the applicant will ensure that the player payment problems that have been faced by Full Tilt Poker could not happen in Jersey. Those are the issues that I mentioned earlier in relation to what is termed Black Friday where the F.B.I. investigated online gambling companies in the U.S. (United States) where online gaming is illegal. Article 13 provides for charging first stage fees for different types of application. Article 14 provides for grant or refusal of a licence. Article 15 provides that licences are subject to conditions. The conditions are covered in the next few articles, but it may be worth pointing out, and this has been raised already, but pointing out to the Deputy of St. Martin, who has shown some interest in this area, that this would allow the Commission to add a condition allowing a bookmaker, for example, to occasionally offer their services at sports fixtures other than the racetrack, if this was with the consent of the landowner and event operator. This is a longstanding request from the bookmaking industry. Article 16 provides for general mandatory conditions, to which all licences are subject. Article 17 provides for further mandatory conditions, to enable the Commission to supervise the licensee effectively. Article 18 provides for supplementary conditions. This incidentally gives the

Commission the flexibility that it needs to licence different businesses appropriately according to their circumstances, rather than applying a one-size-fits-all approach. Clearly, whatever the circumstances, the Commission must always promote the guiding principles under the Commission Law. Article 19 provides for standard supplementary conditions. Article 20 provides the list of topics for which there must be a condition imposed, but for which the Commission can choose the content of the condition, individually or as a standard condition. Article 21 provides a non-exhaustive list of additional topics on which the Commission may impose conditions if it chooses. Article 22 provides for an annual fee to be charged during the life of different types of licences, with the licence automatically revoked for non-payment. I propose part 2, which is Articles 7 to 22.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak? Senator Le Marquand.

1.3.1 Senator B.I. Le Marquand:

I am interested to understand the nature of policy under Article 9, because clearly the Commission must prepare a statement setting out policy, and I am wondering if policy is going to include a maximum loss, a maximum percentage loss in relation to different types of matter, because I think I share the concern of Deputy Tadier as to the lack of information available to a gambler as to what the odds are going to be on any particular matter. I have been attempting this morning, believe it or not, to calculate the odds on Crown and Anchor, and believe that I have come up with what may be the right formula, and I would like another arithmetician or 2 to double-check it, I reckon the loss is 8.75 per cent per play, which would be about 3 times as much as that which I have calculated at 2.7 per cent loss in relation to roulette, and it seems to me that it is relevant to the granting of different types of ... people ought to have some idea, and I wonder, and this is the question I have come to ask, having given the calculation, which may be wrong of course, I wonder if I could receive some assurance from the Minister that the policy will take into account issues such as the percentage loss on each play.

1.3.2 Connétable D.J. Murphy of Grouville:

Under Article 12, I looked for a restriction on the number of licences, which will be issued. Do we have a quota or will you be making it up as you go along?

1.3.3 Deputy A.E. Jeune:

I am still rather stuck on Article 17 and perhaps the Attorney General will be able to clarify maybe some of it. Insomuch as it says: "Statements required under these powers cannot generally be used in criminal proceedings, but can be used as a basis for other enforcement, such as the imposition of a civil financial penalty." So what does the "cannot generally be used" mean and, in the event that the licensee does not allow the officer or agent of the Commission to search the premises, *et cetera*, as in 17(2)(d), would the agent or officer be required to get an authority from somebody like the police or the courts?

The Attorney General:

Yes. To deal with the last point first, the answer to that is yes, in the event that a licensee does not comply with the condition of a licence requiring access, there is an ability under Article 26 of the Law to seek a warrant from the Bailiff to give effect to that. I will just double-check that I am giving the right citation, if I may. It is not Article 26, it is Article 33, I believe. Yes, there is an ability to apply for a warrant to the Bailiff. The second question related I think to Article 17. I am afraid I do not see the word "generally" and perhaps the Deputy could point me in the direction. I have to mind Article 17(8), which is: "A statement made by a person in compliance with the requirement imposed under this Article may not be used by the prosecution in evidence against that person in any criminal proceedings, except proceedings under Article 34." That is obviously the privilege against self-incrimination, which is embodied in the Statute, and the reference to

Article 34 is where the offence would itself be making a false statement, so it would be nonsensical if you could not use the false statement in that evidence.

Deputy A.E. Jeune:

Sorry, if I was not clear for the Attorney General. I am sorry, I was looking at what was written on page 16.

The Attorney General:

Page 16 is the characterisation in the report; I am obviously looking directly at the words of the Statute.

The Deputy Bailiff:

Deputy Jeune, have you completed your speech? Then I call on Deputy Le Claire.

1.3.4 Deputy P.V.F. Le Claire:

It is interesting to listen to the odds in relation to Crown and Anchor, because I generally lose 100 per cent when I play that game. **[Laughter]** So I tend not to. I do think it is right though that, as has been outlined, that clear policy needs to be given, and I think I am certain now the issue has been raised to this level that the Minister will ensure that it is given to people so that they do know the odds of what they are losing, and I thought Deputy Tadier and the Minister for Home Affairs have underlined that issue well enough. But I just wonder, I am looking at the conditions of licensing and how it affects advertising, involvement of children, and the granting of licensing, *et cetera*, and all of those caveats. I do not really wish to fly a kite, I try not to do that anymore these days, but I have just ... something entered my head, and I am wondering how this law will protect children gambling. I am thinking more of the fête type activities where you get, for example, the fair that comes over and there may be activities where there is an opportunity to win prizes or it may be a form of gambling, and I am wondering just exactly how those activities from these people who arrive in Jersey are going to be regulated and monitored in a way to protect people as this law is doing.

The Deputy Bailiff:

There is something of a hum that has been arising in the Assembly from time to time from Members talking to each other and I should be most grateful if that could be reduced, if not eliminated, it is sometimes difficult to hear and it is disrespectful to the speaker. I call on Deputy Duhamel.

1.3.5 Deputy R.C. Duhamel of St. Saviour:

There is a branch of mathematics called game theory, which covers gambling games, and generally the definition of a fair game is where the expected winnings is equivalent to your stake, so that does not mean to say you are going to win all the time, but the probability of winning a particular sum, plus the probability of losing a particular sum, the total must be equivalent to your stake. Now on page 8 we heard from Deputy Tadier and Senator Le Marquand, both making comments that on page 8 the J.G.C. (Jersey Gambling Commission) had a duty to ensure that any games played should be verifiably fair to consumers of those services. So what is missing perhaps at this point in time, within the regulations - and I am asking for an assurance from the Minister who is bringing forward the Law - is that the definition of fairness is the one that I have outlined. If indeed we are going to be licensing games that are not fair, which means that there will be a shortfall in the amount of monies that one is expected to win, compared to the stake money, so that would include games such as roulette, Crown and Anchor, in fact quite a lot of games, because in essence the point is to try and maximise the commission to the gambling body, then indeed those games might well be still playable under the Law, but I think what is being asked for and what is being suggested that should be there in place is that the overall expectation of winnings, compared to your stake money, should be the label on the tin, so to speak. It does not say that, but because it is across 2

particular laws, there is a supposition that the Gambling Commission (Jersey) Law will allow the Commission to make these statements, but I think for a number of Members we would like to be completely assured that this is the case.

The Deputy Bailiff:

Deputy, could you help me with which article are you referring to in that speech? Article 9; thank you. Does any other Member wish to speak? Senator Le Gresley.

[10:30]

1.3.6 Senator F. du H. Le Gresley:

When the Minister responded to comments in the preamble, he responded to Deputy Pitman with reference to a casino. In his response, as I recall, he said that the Commission, under I think 9(1), would prepare a statement and consult if they were thinking of introducing any new type of gambling. My concern there is whether Article 10 whereby the States would make regulations providing that no licence would be granted by the Commission for a prescribed type of gambling, whether in fact there is a conflict between what the Commission could do and what the States of Jersey would do by regulation, and I would like to be reassured that the States have the ultimate decision by way of regulation if, for example, casinos were to be introduced into Jersey and it would not be just down to the Commission to make recommendations or in fact introduce this type of gambling. My second point, which I may be helping the Minister or I may not be, but there have been 3 people now talking about making it fair, and I think having - what I understand of this - Article 20(1)(d)(ii) says that the supplementary conditions... and one of them is that: "The manner in which ... may be lost or won in relation to the gambling and the chances of winning or losing." So my interpretation of that is that there is a responsibility to do exactly what Deputy Tadier and others are concerned about, is to make it clear what can be lost and the chances of winning or losing.

1.3.7 Senator T.J. Le Main:

I would like to perhaps just follow on a little bit from what our Dean has spoken about in regard to people with addiction. I certainly am aware of a very recent case of a very local family where one of the family has a truly awful addiction and has put the whole family in all sorts of problems with money worries. The issue is that I wonder whether the Minister could explain to the Assembly what sort of control on someone with gambling addiction do they have at the moment with current bookmakers, because the Commission is now going to be giving some protection or assistance to these unfortunate addicted people. But at the present time would the Minister confirm there is no protection whatsoever and a bookmaker can take everything that someone has without any questions being asked at the moment?

The Deputy Bailiff:

Senator, if I may so, that is points no doubt very validly raised, but they do not seem to be addressed to the articles, which we are now discussing. Deputy Tadier.

1.3.8 Deputy M. Tadier:

Can you say it with a bit more conviction, Sir?

The Deputy Bailiff:

Deputy Tadier.

Deputy M. Tadier:

Thank you. You almost sounded disappointed; that is the reason I commented. I am sure that is not the case.

The Deputy Bailiff:

No, I am never disappointed.

Deputy M. Tadier:

I hope that now Senator Le Marquand has thrown his twopenn'orth into the ring that my comments earlier have more credence. I think the point he makes is essentially what safeguards are there in place and at what point does it stop ... will the Commission turn around and say: "We are not going to issue your licence because your game is not a valid game, it is not reasonable, the payout that you are promising that you can guarantee your punters in the long-term is not valid." Now we know there clearly has to be, in my opinion, a distinction between things, which are run for charitable purposes, and things, which are run purely for profit. So we know, for example, that on purely a financial gambling perspective it does not make sense to buy lottery tickets for hospice, purely on financial grounds, because you know your payout I think is roughly, if I recall it, 60 per cent, so you know for a £300 ticket you are having to give £120, so I prefer just to give £80 to hospice and then I have won, I know that I have saved money by doing that, for example. But that is completely different because when people do that they go into it knowing they are essentially making a donation to charity and there is a minority chance that they are going to get something back. It is completely different if you are gambling for the sake of trying to make money for yourself, and of course the gaming establishments or individual is trying to do exactly the same thing. There does seem to be provision for this in Article 9(6), which says that: "Nothing in a statement is to be taken as an exhaustive description of the circumstances in which, or the types of gambling for which, the Commission will or may refuse an application for a licence." So what I would hope ... I mean first of all I think it has to be said there is nothing in the law itself, which does stop extortionate gaming practices. But there is a provision here and I think it is important for the Assembly - which I think Senator Le Marquand has done, and others have also done - to say that we would hope that the Gambling Commission would take into account what the percentage odds of a payout are. There really needs to be guidelines I think for what is an acceptable payout in terms of which games are acceptable and which are not. I think the message is at least on Hansard now, and I think perhaps Members who have specific concerns could perhaps make a collective representation to the Gaming Commission to further underline this concern; and I know they are listening now, so I think that needs to be said. But the last point I think is ... because I know there will be people listening on the radio who are involved, and I know that many of the Crown and Anchor stalls themselves run on a charitable basis, so they give their profits to charities. So we are not having a go at the game of ... at their services that they provide. That is completely to be welcomed, but there is necessarily a duty of care for the States and I am concerned that up until now in the law it has not been specifically prescribed. Nonetheless, it is important that there are safeguards in place, whether they are done ... whether they are written in the law or whether it is just down to discretion.

The Deputy Bailiff:

Can I say the last 2 speakers have made speeches that really go to the principles of the legislation. The purpose of this part of the debate is to look at the language of the articles that are being adopted, if there are questions about whether the language that is set down in the law either meets or does not meet what are said to be the principles, and that should be the focus of Members' speeches. The Connétable of St. Saviour.

1.3.9 Connétable P.F.M. Hanning of St. Saviour:

I am looking at Article 16 where there is a direction in relation to children and restricting advertising in relation to children, but I cannot find anywhere in the article where it restricts the ... or the controls are put on in relation to the age of children involved, and I wonder if the Minister could give us clear indication on that.

The Deputy Bailiff:

If I may help you, it is in the interpretation provision, Article 1: "Child means a person under the age of 18." Does any other Member wish to speak? Very well. Minister, I call upon you to reply.

1.3.10 Senator A.J.H. Maclean:

Senator Le Marquand raised a point in relation to maximum loss percentages. I will just make a couple of observations, which might be helpful to Members in regard to that, and I would thank Senator Le Gresley because he has been helpful in the comment he made, I was a bit apprehensive when he wondered whether he would be helpful or not, but he has been helpful, so I thank him for that. That is Article 20(1)(d) where quite simply under that article what may be lost, there could be a requirement for operators to display odds, and I think that might also give some comfort perhaps to Deputy Tadier. I think it is probably worth pointing out that there are 2 elements. "Fair" has been used a lot by Members and I understand exactly the reason behind it in terms of gambling. Fair means equal chance, but information on odds are another matter in many respects and I think under Article 20(1)(d) that should hope to clarify and allow the necessary powers in order to ensure that operators do specify what the odds are. On top of that, the Gambling Commission can consult on such matters and indeed I will suggest to them that they do put out to consultation the requirement for publishing what indeed odds may be available. Senator Le Marquand was raising the odds that he calculated on Crown and Anchor, and these could indeed be published. I do have a doubt though whether most consumers will consider odds when they are thinking about having a bit of fun at a fête, but nevertheless, if it is deemed to be something of value, then I am sure that can be accommodated whether under 20(1)(d) or following consultation through the Gambling Commission. The Constable of Grouville asked about numbers of licences and I think he was referring specifically to licensed betting offices. There are currently 29 in the Island at the moment so that is the maximum number of licences that are available under the existing 1964 Law. There is some question, out of interest, as to where that number of 29 came from, there is a belief that prior to the law coming in, in 1964, there were in fact 29 licensed betting offices operating illegally, so it was decided that, as there were 29, that is the number there would be, and it has been set at that ever since. I am not sure there was any particular science to it. Nevertheless, there are a certain number of issues surrounding putting specific numbers of licences available for licensed betting offices and indeed currently, if I am correct, no more than one-third of any particular single operator can have any more than one-third of the available stores, L.B.O.s (Licensed Betting Office), in the Island currently, but that is a competition issue under the Competition Authority of the J.C.R.A. (Jersey Competition Regulatory Authority). It is therefore considered best to let the market determine such matters and not put specific numbers in terms of L.B.O.s into the law... enshrined within the law. Deputy Jeune, I think the Attorney General was right, and so I think hopefully that has clarified her position. Deputy Le Claire asked a question about children and risk. Yes, currently, and I think this was picked up as well by the Constable of St. Saviour under Article 16 with the age, currently children of any age can go to any charitable event, fête or what have you; the age limit is 18 but the key is that children will be supervised, supervised by a parent, guardian or whoever.

Deputy P.V.F. Le Claire:

May I ask the Minister to give way for a second. I was seeking, in and around those articles, I was seeking some reassurance that, when the fair comes, the activities that the fair are going to conduct are also covered by these regulations in a manner that protects children.

Senator A.J.H. Maclean:

Yes, indeed, they would have to apply for a licence and the Commission have the power to add to that supplementary conditions and clearly protection of children is uppermost in their minds, so I would hope the Deputy can rest assured on those grounds. Senator Le Gresley asked about potential conflict with regard to ... I think he was referring to the possibility of future types of

gambling and specifically ... I mean that could cover a number of areas but I think it was concerned specifically about the possibility of casinos. It does not really matter what it is, casino or any other form of gambling that does not currently exist in the Island, should indeed it be required or an application made to the Jersey Gambling Commission, then the Commission themselves will consult and that is something that they would have to do. Secondly, and this is the protection I think that the Senator, and I am sure Senator Le Marquand as well will find this of interest, it will be and it is the power of the States to make regulations that can preclude any form of gambling, so if it was decided that a particular new form of gambling was not deemed to be in the interests of the Island, then the States could make regulations and that would override the Gambling Commission, so I hope that gives some safety net to the 2 Senators in particular. Senator Le Main is absolutely right, I will just touch on the fact that there is currently, or has been, no protection in the past for vulnerable people. Both the introduction of the Gambling Commission, and assuming that, if Members adopt this law today, that would give the power to the Commission in order to bring in protection for vulnerable people, young people as well, and in particular it will allow them to enforce matters relating to exclusion within licensed betting offices. It is a problem, there is thankfully a very small minority, but nevertheless for those that are affected it is a significant matter. I believe I have answered all the questions and I maintain the articles in the part, Articles 7 to 22.

The Deputy Bailiff:

Articles 7 to 22 are proposed and the appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

POUR: 30		CONTRE: 1		ABSTAIN: 0
Senator P.F. Routier		Deputy J.A. Hilton (H)		
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Helier				
Connétable of Grouville				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy G.P. Southern (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				

Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

We come now, Minister, to part 3.

1.4 Senator A.J.H. Maclean:

Yes. Part 3, Articles 23 to 29, deals with other types of gambling, not commercial gambling services provided to punters. In these cases the starting point is that people are free to gamble and provide services except so far as the States enact regulations providing otherwise. Article 23 defines ancillary services as gambling services that are provided by way of business, but only to other businesses. Article 24 allows the States, by regulations, to prohibit the provision of types of ancillary service or require providers to obtain a permit or approval from the Commission. Examples of this might be services provided locally to overseas gambling operators, for example manufacturers of hardware or software to other operators and so on. Article 25 defines charitable and membership gambling services, in both cases to exclude commercial gambling services. Article 26 provides that charitable and membership gambling services can be restricted, in similar ways to ancillary services, by regulations prohibiting types of such service or requiring providers to obtain permits from or be registered with the Commission. The Jersey Gambling Commission has indicated that it would seek States support to create a registration scheme and in particular circumstances with high financial awards, subject such gambling to permit. This would be a huge improvement on the current scheme where every club or society must register every year and also have a permit for every type of gambling; this is unwarranted and unnecessary and the new system proposed by the Commission should greatly ease the bureaucracy currently faced by good causes using small-scale gambling for fundraising purposes. Article 27 provides for public lotteries. Initially it continues the existing Channel Islands Lottery legislation in force as if made under this Law. But it allows that it can be replaced by fresh regulations under the Law, which can make similar provisions. Article 28 defines private gambling as gambling by adults, or by children with permission, which is not advertised nor carried on in public and for which no gambling service is provided by anybody. Article 29 regulates some aspects of advertising. This is not a blanket ban on advertising, which can be allowed by the Commission, but creates the criminal offence for unlawful advertising. I propose part 3, Articles 23 to 29.

The Deputy Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on these Articles? Deputy Dupre.

1.4.1 Deputy A.T. Dupré of St. Clement:

I know that the Minister said that the Lottery could apply for regulations to change things; we did talk about having a lottery for the Jersey Heritage, will this still be able to take place?

1.4.2 Deputy S. Power of St. Brelade:

I wonder if the Minister would explain in a little better detail, or else ... for me to understand Article 25(1)(b) whereby the interpretation: “For the purposes of this law a charitable gambling service is a gambling service that ... is not provided by a commercial operator.” My concern would be, if a church wanted to raise money for a building fund and wanted to have church hall Bingo or a similar gambling entertainment to be hosted within that church hall, and this was to be provided by someone, perhaps a commercial operator would take a small fee, but the majority, 90 per cent, 95 per cent, of the funds raised by the gambling would go to that church, could he clarify where that would sit under Article 25, or I think it is 25. Thank you.

1.4.3 Senator F. du H. Le Gresley:

I would be grateful if the Minister could address in his reply, reference to Article 27 - public lotteries, the notes - and he said in his speech that initially it continues the existing Channel Islands

Lottery legislation in force as if made under this Law. I would be grateful if you could advise me whether regulations will be required for the new operators of the Channel Islands Lottery to allow the use of electronic lottery terminals.

The Deputy Bailiff:

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

1.4.4 Senator A.J.H. Maclean:

Deputy Dupré, the Jersey Heritage, and funds for Jersey Heritage with regard to lottery, the new electronic terminals have flexibility with them and the intention is that indeed those can be used for specific events, possibly raising funds for Jersey Heritage or other forms of good causes. This strikes at the heart of a comment I was making earlier about the Association of Jersey Charities. The changes as proposed to the Jersey Lottery - the Channel Islands Lottery, but the Jersey element of that - with electronic terminals, will we believe mean that the current funds to the Association will be maintained and possibly enhanced. We are certainly hoping it is going to raise more than the £300,000 to £400,000 on average that has been generated for the Association in recent years, and on top of that generate funds for other good targeted causes like Heritage, which is an item that has been discussed in the past, so this move is beneficial in that respect. Deputy Power, my understanding is that the ability for clubs, fêtes, charitable organisations wishing to raise funds, and wishing to have an element of some form of gambling involved as part of that fundraising event, would need to be licensed; that is the case currently. The new system is going to streamline, reduce bureaucracy, but it allows the Commission to add supplementary conditions if they see fit, but it is not going to prohibit, it is going to make it easier and clearer for charities to be able to raise money and for these events to be contained within a particular fundraising event.

Deputy S. Power:

Can I ask for ... would the Minister give way? Does that mean that ... how do I phrase this? Does that mean that a Parish church, or any church, if they wanted to raise £500,000 for a roof or a spire repair or a bell repair, that they would have to register to gamble in order to raise funds through church hall Bingo to carry out that fundraising?

Senator A.J.H. Maclean:

The operator, if there is going to be a professional operator, or a commercial operator I think is the correct term, would need to seek a licence, not the church itself, if you were going to, for example... if the church is running an event, the church itself would not need to get a licence, but if they were going to ask an operator, a commercial operator, to run an event, then the commercial operator would need to get a licence and apply. Senator Le Gresley asked about the public lotteries and indeed in specific terms the Channel Islands Lottery and whether or not for electronic terminals, the new operator would need a specific additional licence. The existing rules and regulations allow for those terminals within the law, as I understand it, so I do not believe anything additional is going to be required. I would just seek confirmation, I do not want to mislead Members, so I would ask the Attorney General if he would just confirm that point.

The Attorney General:

I am terribly sorry, I was concentrating on a different article and I missed what the Minister had said, so I am not able to assist.

Senator A.J.H. Maclean:

Yes, it was in relation to Article 27, and the electronic terminals that are going to be utilised by the new operator of the Jersey Lottery, as to whether any additional licensing is required as far as those terminals are concerned.

The Attorney General:

My understanding is that there is no further licensing required for the use of those terminals.

Senator A.J.H. Maclean:

If I could thank the Attorney General for confirming what I had already said, excellent. I think that has answered all the questions and I maintain part 3, Articles 23 to 29.

The Deputy Bailiff:

Articles 23 to 29 are proposed, the appel is called for. I invite Members to return to their seats. The vote is on whether or not to adopt Articles 23 to 29. I ask the Greffier to open the voting.

POUR: 30		CONTRE: 1		ABSTAIN: 0
Senator P.F. Routier		Deputy J.A. Hilton (H)		
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Helier				
Connétable of Grouville				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy G.P. Southern (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

Yes, Minister.

1.5 Senator A.J.H. Maclean:

If I could take part 4, that is Articles 30-40. These deal with the investigation and enforcement, making provision similar to the equivalents in financial services legislation. Some require the Commission to apply to court, but there are also appeals to court against the Commission's powers where appropriate. Articles 30 to 32 allow the Commission to serve notices, similar to equivalents in financial services legislation, requiring information, documents, inspection of equipment,

answers to questions or entry to premises. Article 33 provides for the Bailiff to grant entry and search warrants where entry has been denied, notices are not or would not be effective, or a direction has been contravened. Article 34 provides offences of providing false information. Articles 35 to 40 provide a range of means of taking action over problems, and these include directions to act in a specific way, particularly to benefit creditors, customers, or in order to protect the reputation and integrity of the Island. It is a very broad power that includes potentially removing an individual from their seat on a board or a position in a company. It is a power that could only be used with the utmost care and when absolutely necessary and for the reason the breach of a direction is a criminal offence for those who are not licensees; licensees already being covered by the civil powers earlier. The Commission may also apply to the Royal Court for injunctions or remedial orders against an individual, and for licensees the Commission may apply to the court for an intervention. Again, this is a most serious sanction requiring an application to the Royal Court as it would allow the Commission to directly supervise or restrain a company's business activities. Article 35 allows the Commission to issue directions, similar to equivalents in financial services legislation. Article 36 allows the Commission to apply to the court for injunctions or remedial orders. Article 37 allows the Commission to apply to the court for orders intervening in the running of a gambling business where needed. Article 38 allows the Commission to revoke a licence in certain circumstances. Article 39 introduces a new scheme of civil financial penalties. The Commission can, in response to a breach of a licence condition or information notice, and after serving a warning notice and considering representations, require a licensee to pay a penalty of up to £5,000 or twice the profit made by the breach. The Commission may be satisfied that the breach occurred and the penalty must be justified by the breach, taking into account whether it has been remedied, how serious it was and so on. The money paid is handed over by the Commission to the States' Consolidated Fund. But the States can make regulations amending aspects of the scheme, including allowing the proceeds to be paid for other purposes if no improper incentive will be created for the Commission to be overzealous in collecting money through this route itself. This is important as the J.F.S.C. (Jersey Financial Services Commission) is also considering the best way of imposing financial penalties and this provision will allow this Law to keep in tandem with changes that are possibly occurring in other areas. Article 40 allows the Commission to use some of its investigation and enforcement powers in Jersey to co-operate with an overseas gambling regulator or equivalent. I propose part 4, Articles 30 to 40.

The Deputy Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on these Articles? The Connétable of St. Saviour.

1.5.1 The Connétable of St. Saviour:

Just on Article 33(4)(a) it says that documents after a search can be retained for up to a year, but does that apply to computer discs and for example hard drives?

1.5.2 Deputy S. Power:

Under Article 31, notices to information, documents, and equipment relating to persons and unlicensed gambling, if somebody contravenes Articles 8, 24, 26 or 28, and sets up an electronic gambling service purportedly coming out of the Island, but it is in fact somewhere else but uses Jersey as an identity, what powers would he have in that case?

The Deputy Bailiff:

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

1.5.3 Senator A.J.H. Maclean:

The answer to the Constable of St. Saviour is yes. As far as Deputy Power is concerned, if I could refer to the Attorney General, he might be able to give some guidance on that particular query.

[11:00]

The Deputy Bailiff:

Attorney General, what can be done with a rogue operator outside the Island pretending to come from Jersey?

The Attorney General:

To the extent that a criminal offence is committed within Jersey, it may be conceivable that it would be subject to charge and extradition if that were possible, but there are no specific provisions within the law I think, which give the Minister a reach outside of the jurisdiction, other than of course the Commission's collaboration and ability to pass on information to regulatory bodies in other jurisdictions who then can enforce the laws applicable in those jurisdictions.

The Deputy Bailiff:

Minister, anything further?

Senator A.J.H. Maclean:

I would just add to that, obviously the Jersey Gambling Commission has agreements with regulators, it is part of regulator associations and shares information and agreements. So there is some degree of reach, just to build on what the Attorney General has said. Apart from that, I maintain part 4, Articles 30 to 40.

The Deputy Bailiff:

The appel is called for on Articles 30 to 40. I invite Members to return to their seats and ask the Greffier to open the voting.

POUR: 32

CONTRE: 1

ABSTAIN: 0

Senator T.A. Le Sueur

Deputy J.A. Hilton (H)

Senator P.F. Routier

Senator P.F.C. Ozouf

Senator T.J. Le Main

Senator B.E. Shenton

Senator F.E. Cohen

Senator A.J.H. Maclean

Senator B.I. Le Marquand

Senator F. du H. Le Gresley

Connétable of Trinity

Connétable of Grouville

Connétable of St. Saviour

Connétable of St. Mary

Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				

Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

Minister, Part 5.

1.6 Senator A.J.H. Maclean:

Part 5, Articles 41 to 53; that makes provision for various miscellaneous matters. I will pick out some key points. Article 41 makes it an offence to disclose information about a person's business or other affairs if the information was received under the law. Article 44 postpones for one month the variation of a condition to revoke a licence or barring of an individual from posts with a licensee. In urgent cases the Commission can apply to the court to reduce or remove the postponement. Article 47 allows the Commission to set the levels of fees itself. Article 52 prohibits chain-gift schemes, or Ponzi schemes; I think they are probably more familiar to Members with that terminology. Article 53 makes standard provision for criminal liability of those responsible for offences by corporate bodies and limited liability partnerships. I propose part 5, Articles 41 to 53.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on these Articles? All Members in favour of adopting the articles kindly show. Those against. The articles are adopted.

1.7 Senator A.J.H. Maclean:

Part 6, Articles 54-57 deal with how the new law is brought into effect. Just a couple of observations. Under Article 54 that repeals the existing gambling legislation, updates references to gambling law in other legislation, and allows other consequential amendments to be made. Article 55 provides the transitional provisions. Article 56 makes general provision about orders and regulations. Article 57 provides the name of the law and for it to come into force by Appointed Day Act. I maintain part 6, Articles 54-57.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? Those in favour of adopting part 6, Articles 54-57, kindly show. Against. The articles are adopted. Minister, do you propose in Third Reading?

1.8 Senator A.J.H. Maclean:

Yes, Sir.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? Deputy Jeune.

1.8.1 Deputy A.E. Jeune:

Just very quickly, I believe it was remiss of me not to have thanked in the last reading the Attorney General for his clarification and explanation, which has enabled me to accept this legislation and vote in favour of the proposition. Thank you.

The Deputy Bailiff:

Does any other Member wish to speak? All Members in favour ...

1.8.2 Senator A.J.H. Maclean:

If I may just make some comments. Obviously this has, as Members have mentioned, been a long time in coming in terms of bringing forward this modernisation of our gambling legislation. I think thanks are rightly appropriate to Law Officers, law draftsmen, and members of the Jersey Gambling Commission and members of my department at Economic Development for all the work they have put into modernising and putting in place a framework, which provides importantly - and this has been a key consideration - protection for vulnerable people and young people in the Island who do have difficulties at times with this particular industry. Previously there was no protection whatsoever, or very little protection, and now I think, as an Assembly, we can be proud of the legislation that we put in place that will provide significantly greater protection in all those areas, as well as opening-up opportunities for the Island from an economic point of view. I would also like to endorse thanks to the Attorney General, he is sprung questions at the drop of a hat and always responds very quickly and accurately and his assistance is greatly appreciated. I maintain the proposition.

The Deputy Bailiff:

The appel is called for. The vote is on whether to adopt the Gambling (Jersey) Law in Third Reading. I invite Members to return to their seats and ask the Greffier to open the voting.

POUR: 36		CONTRE: 2		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy J.A. Hilton (H)		
Senator P.F. Routier		Deputy of St. John		
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisseier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				

Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

2. Ratification of the Agreement for the exchange of information relating to tax matters between the Government of Jersey and the Government of the Republic of Indonesia (P.101/2011)

The Deputy Bailiff:

We now come to P.101, Ratification of the Agreement for the exchange of information relating to tax matters between the Government of Jersey and the Government of the Republic of Indonesia, and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to ratify the agreement for the exchange of information relating to tax matters between the Government of Jersey and the Government of the Republic of Indonesia as set out in the appendix to the report of the Chief Minister dated 4th May 2011.

Senator T.A. Le Sueur:

Can I invite my Assistant Minister to act as rapporteur for this matter?

2.1 Senator F.E. Cohen (Assistant Chief Minister - rapporteur):

As Members will know, the Chief Minister has asked me to progress the signing and ratification of Tax Information Exchange Agreements in my capacity as Assistant Chief Minister with responsibility for U.K. and international relations. Some have become somewhat complacent about the signing and ratification of new Tax Information Exchange Agreements, however they are the bedrock in Jersey's success in establishing ourselves as a well-regarded and responsible jurisdiction internationally. The decision to embark on a programme of signing T.I.E.A.s (Tax Information Exchange Agreements) with G20 and O.E.C.D. (Organisation for Economic Co-operation and Development) member countries was taken by Jersey in 2002 and largely through the sterling efforts of Jersey's longstanding International Adviser, we have now signed T.I.E.A.s with 23 countries, including all but 2 of the G20 countries. Largely as a result of our commitment to the signing of T.I.E.A.s, Jersey has become recognised by the international community as a responsible jurisdiction and in consequence we were honoured to be appointed as vice-chairman of the peer review group established under the Global Forum on Transparency in International Information Exchange for Tax Purposes. Our partner vice-chairs are India, Singapore and Japan. It is through the signing of T.I.E.A.s we are able to demonstrate that we are a highly regulated, open and transparent financial jurisdiction. We are able to differentiate ourselves from other jurisdictions with lesser regulatory standards. It demonstrates that our financial regulatory standards are recognised internationally as being of the very highest standard. Entering into Tax Information Exchange Agreements is thus an absolutely essential foundation stone of the continued development of our financial services industry and T.I.E.A.s underpin the progression of our internationally-based economy. The ratification of this T.I.E.A. with the Republic of Indonesia is a significant step in our extensive programme of T.I.E.A. agreements. The Republic of Indonesia is a member of the G20 and with a population of over 245 million, Indonesia is the world's fourth most populous nation. As well as being a member of G20, Indonesia is a founding member of the Association of Southeast Asian States. The Indonesian economy is estimated to be the world's sixteenth largest by purchasing power parity. The ratification of this agreement is an important step in the development of relations with the growing economies of Southeast Asia, undoubtedly a significant future source of business opportunities for Jersey. Asia generally represents huge opportunities for Jersey as capital flows shift to the east and this T.I.E.A. is a significant step in progressing awareness of Jersey's high regulatory standards in Southeast Asia. Our recent visits to

China and India demonstrate our commitment to progressing opportunities in the fastest growing regions of the world, both visits are already delivering success and new opportunities. T.I.E.A.s are the bedrock of our efforts to raise Jersey's profile and further demonstrate our position as a premier financial centre of the highest regard. T.I.E.A.s demonstrate that we take our obligations to the international community seriously and we will not provide a safe haven for the proceeds of tax crime. Further T.I.E.A.s are under negotiation and we hope to be in a position to finalise the T.I.E.A. with India in short order. Last week we signed T.I.E.A.s with the Czech Republic and the Republic of South Africa. These signings took place at their respective Embassy and High Commission in London. The Czech Republic signing represents an important step in concluding T.I.E.A.s with European nations. The signing of a T.I.E.A. with South Africa is most significant as South Africa is one of the fastest growing countries in Africa with huge mineral resources. Business links with Jersey and South Africa are many decades old and of course we have significant historic links through the export of cattle. I am pleased to propose the ratification of the T.I.E.A. with Indonesia. Thank you.

The Deputy Bailiff:

Does any Member wish to second it? **[Seconded]** The Deputy of St. John.

2.1.1 Deputy P.J. Rondel of St. John:

I note the Assistant Minister is presenting this, but I note in on page 17 that the T.I.E.A. in fact was signed by the Minister himself on this, and I would have preferred that, given it was signed by the Minister, that he himself would have presented it, because I think it is the person himself that should ... who has signed it, stand up to take any questions, but, not that I have any doubt that the rapporteur is not 100 per cent kosher in the way he does things, but I would have preferred to have the Minister, given he signed it.

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

It is a minor point, but I am just thinking of our radio listeners, acronyms are wonderful things, but I did not hear the Minister, perhaps he mentioned it once, explain the acronym for a T.I.E.A. of a Tax Information Exchange Agreement, I think it is important that people listening know what we are talking about. Thank you.

2.1.3 Deputy R.G. Le Hérissier:

Just quickly, slightly broader, could the Minister or the Assistant Minister tell us whether the Indonesian authorities discussed the issue of how many approaches had been made for information under existing agreements and how many had been accepted, and had been declined, in order that the effectiveness could be judged.

The Deputy Bailiff:

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

2.1.4 Senator F.E. Cohen:

The reason I have been asked by the Chief Minister to present the ratification is that I was appointed to this job in the interim and I hope that satisfies him. The Constable of St. Helier asked what is a T.I.E.A., as I said it is a Tax Information Exchange Agreement, and it is an agreement under certain circumstances to exchange information between the signatory parties. As far as the question raised by Deputy Le Hérissier, there have been approximately 60 requests for information under T.I.E.A.s and the vast majority have been progressed in the appropriate manner. Thank you.

Deputy R.G. Le Hérissier:

Could the Minister define "vast majority"?

Senator F.E. Cohen:

I think that the position is that of the 60, 46 have been fully satisfied and there is one outstanding matter in relation to one country that hopefully will be resolved in the very near future.

The Connétable of St. Helier:

Can I just correct the Minister, I did not ask what a T.I.E.A. was, I know what a T.I.E.A. is, I wanted to make sure that the acronym that he used throughout his speech was fully understood by people listening to the debate.

Senator F.E. Cohen:

I did on 2 occasions throughout my speech extrapolate on the acronym and use the full term of Tax Information Exchange Agreement.

The Deputy Bailiff:

Very well. All those Members in favour of adopting the proposition kindly show. Those against. The proposition is adopted.

3. Draft Medical Practitioners (Registration) (Amendment No. 4) (Jersey) Law 201-(P.106/2011)

The Deputy Bailiff:

We now come to P.106 - Draft Medical Practitioners (Registration) (Amendment No. 4) (Jersey) Law - lodged by the Minister for Health and Social Services and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

The Draft Medical Practitioners (Registration) (Amendment No. 4) (Jersey) Law. A Law to amend further the Medical Practitioners (Registration) (Jersey) Law 1960. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

The Deputy Bailiff:

Minister, do you wish to propose the Principles?

[11:15]

3.1 Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):

I do, thank you. The Medical Practitioners (Registration) (Jersey) Law 1960 is primary legislation, which determines the ability of individuals to be registered as medical practitioners in Jersey. Under the law, having gained all the relevant qualifications and training, doctors can make an application to the Royal Court to join the register, which is currently held by the Judicial Greffier. Once registered, medical practitioners may practise medicine in Jersey and use any title, such as Doctor, Physician, Surgeon, which either indicates or implies that they are a medical practitioner, and anyone doing so without being on the Jersey Register of Medical Practitioners is committing an offence. Turning now to the specific amendment and bringing it forward, there are aspects of the 1960 Law that are out of date and unfit for purpose. The Royal Court registers medical practitioners at the point of entry to practise in Jersey but there is no mechanism for the Register to be kept up-to-date. It includes all doctors who were ever registered since the year 1960. The current law refers only to registration of doctors and not to the new requirements of the G.M.C. (General Medical Council) that all practising doctors hold G.M.C. licences to practise and revalidate them on a regular basis. If the fitness to practise of a doctor in Jersey is in question, there are no local powers to investigate. This has posed a problem in recent years. With no local regulation, a small number of doctors in difficulty have continued practising in Jersey until problems escalate through to trigger G.M.C. national fitness levels to practise proceedings. If the

G.M.C. brings a doctor before a fitness to practise panel and places conditions on their registrations and licence to practise, there are no current mechanisms for these conditions, which are for the purpose of protecting patients, to be applied here in Jersey. Even if a doctor's fitness to practise is seriously in question - and we have cases like this in recent years - unless a doctor is a hospital employee, we have no means of protecting patients from poor or risky practice by suspending a doctor pending investigation. The G.M.C.'s national level fitness to practise procedures, even in the most urgent of cases, can take months to set up. Patients could be at risk during this time if a doctor continued practising. The norm in other health systems is to have a local means of suspending doctors, which can be enacted quickly on those rare and worrying occasions if maybe needed. The amendment set out to bring the Medical Practitioners Law up to date. It will lay the foundations we need for a new system of local regulation of doctors in Jersey. One of the commitments I gave, which made in the Proposition 36/2010, and unanimously adopted by this Assembly. There will be a new live Register of Medical Practitioners administered by the Minister for Health and Social Services. This is already the case for nurses and many other health professional groups. There will be new protection for patients in Jersey from poorly-performing doctors wherever they are working in the Island. This protection already exists with regard to hospital doctors, subject to governance procedures as part of their employment. It will enable further changes to be made by regulation to meet the G.M.C.'s licensing and revalidation requirements on doctors practising in Jersey, and more importantly the ability to legally establish the post of responsible officers and their role and responsibilities. Following extensive consultation, including between the Acting Medical Officer of Health and the G.M.C., agreement has been reached earlier this year that the G.M.C. will accept revalidation recommendations from the Jersey Responsible Officers as long as they are legally established. The G.M.C. is making this explicit in its own revalidation regulations so it is now up to this Assembly to ensure that we do have the means of legally establishing and appointing Responsible Officers. We believe this amendment deals with all the outstanding issues and puts in place a new modern regime that will allow the Minister for Health and Social Services to register medical practitioners to practise in Jersey and will allow Jersey to keep in step with modern systems of medical regulation. Not amending is not an option, the current law does not reflect today's standards, or the need for patients and the public to be assured that doctors practising in Jersey are up-to-date and fit to practise. Jersey needs to retain its good standing as a jurisdiction with equivalent standards to our U.K. neighbours, essential for recruitment and retention of doctors, to deliver medical care to the people of this Island. To summarise, amending our outdated Medical Practitioners Law as proposed is essential. Without a decent system of local regulation that the amended law will give us, no doctor working in Jersey will be able to meet the General Medical Council's requirements to have their licence to practise revalidated. Once they were refused revalidation, they would not be authorised to practise either in the U.K. or indeed in Jersey. A doctor without a licence to practise would not be eligible for medical indemnity insurance. Recruiting new doctors would become even more challenging than it is now. With a few years, any sensible doctor would not choose to leave Jersey to pursue their career in a decently-regulated G.M.C.-recognised health system. Jersey would have no choice but to allow unregistered, unregulated, uninsured doctors to work here. In the immediate future, without these fundamental changes to local regulation, there could be no further meaningful process towards delivering on the local governance commitments to G.P.s (General Practitioners) on the Minister for Social Security's proposition P.36. The quality of the healthcare we receive is important to each and every one of us. By adopting the amended law, Jersey will continue to have the means of attracting and recruiting good quality doctors to deliver good quality medical care. The people of Jersey will, for the first time, have access to up-to-date information about doctors registered to practise in Jersey. They will also, in a few years, have the assurance that all doctors caring for them in Jersey are up-to-date and fit to practise. I urge this Assembly to adopt this proposition.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Does any member wish to speak on the principles of the Law? Deputy Jeune.

3.1.1 Deputy A.E. Jeune:

I believe we have a responsibility to our general practitioners to accept this Law, which will enable them to continue to practise in line with General Medical Council requirements, which is their professional regulatory body, and it will enable the general practitioners to provide the high standards and reassure the public that they are getting exactly that. But, I would ask the Minister if she would please clarify, in her report, page 4, who the statutorily appointed Responsible Officer exactly is, because I could not find an explanation or clarification in the Law.

Deputy S. Power:

Deputy Jeune has just asked my question.

3.1.2 Senator S.C. Ferguson:

I wonder if the Minister can explain, it is not only the registration of doctors for their clear understanding of what they are doing, but it is also the clear understanding of who and what are registered for the general public. Now, the Minister has elected to be able to prescribe conditions by Order, and I wonder if the Minister would explain why she is doing this by Order, which does not have to come back to this House, as opposed to regulations, which would come back to this House.

3.1.3 Senator T.J. Le Main:

I very much welcome this legislation and, in fact, having been on the Health Committee years ago, I very well remember having a “doctor” who had rather strange qualifications attained somewhere in France and at that time causing all sorts of difficulties within the Island and in fact there was no way out, but at that time that Jersey had to register that person, even though it was a ... well we were really lucky we made it out of it by the skin of our teeth with no problems. But these new regulations will now make it cast iron tight that we will only be able to employ the best in relation to G.P.s and practitioners. I think we have been very lucky over the years that we have not had any serious ... really serious problems with people that we were forced, through ... to register them in Jersey because they had some qualification attained in another country. As I say, I very much welcome this, it has taken a long time, and I am sure that Jersey will be able to be proud to have people on the register that will be top class.

3.1.4 Deputy P.V.F. Le Claire:

I also welcome the legislation and will be supporting it, but in the principles of the debate I would like to just raise a flag of caution. It has been my experience in recent years, in trying to assist in the provision of services for, not only patients, but also those that are practising in medicine in Jersey, that there are times unfortunately - and the Minister knows full well to what I am referring in some instances - where there are, or there has been, questionable pressures brought about by people in places where it could be argued quite clearly, if one was not staying in line, one was going to fall foul of an authoritative system. I was criticised, when I first mentioned this many years ago, by Senator Shenton, who asked me to cough-up the evidence. I outlined in particular one trip to the General Hospital where, having listened to some concerns by a highly-placed doctor, that the concerns that had been expressed to me in private were to be kept private and under no circumstances was I to reveal the nature of the concerns or the individual, and in the words of the doctor: “If you say anything, I will be put down, put out and put under.” I remember at the time feeling quite worried about that and I went to the media about it and I raised this issue. Members are laughing, I do not ... **[Aside]** I did not go to the media with the doctor’s name. I did not go to the media with the issues that were outlined to give away who the individual was. However, the circumstances were clear and the circumstances were there, and a short while afterwards, in the first serious case review, if one refers back to the day that first case review was tabled and we all went

to the Town Hall, on the front page of the newspaper outlined by that serious case review were the headlines: "Climate of fear and control at the hospital", or words to that effect. That is what I am concerned about, so I am raising this now because, while I agree with the principle ... while I agree with the legislation and the motivations behind doing this, and I understand completely, for once anyway, the rationale behind this stuff, I also want to raise the concern that we need to be cautious as this moves forwards that there are legitimate opportunities for those who may be speaking out and criticising, who fall subject to the Jersey ... the traditional Jersey way of: "Keep your mouth shut or else," manner, which is levied upon ... some Members are shaking their heads, they do not need to disagree ... they do not need to agree with me, this is a point that I am making that I certainly believe in.

[11:30]

Where, if one does speak out, one is doing so in fear of retribution because of the small community we live in and because of the power of the States over the individual in relation to those expressions that they are clearly not willing or able to express to the highest levels of our consultants within the General Hospital, and I am amazed that Deputy Jeune is in ... seeming to be in disagreement with me when she seems to be so vocal about the other shortcomings in respect of the hospital that she finds this implausible. Not only is it plausible, but it is verifiably fact in relation to the serious case review that this condition exists, and what I am trying to outline is the fact that the current Minister and her team have done an excellent job in addressing this and coming to terms with understanding and moving this forwards, but it has not gone away, it still exists, and it can come back, and unless we are cautious about this it may well come back and it does us no favours whatsoever for people within this Island to be operating under these circumstances. At the moment I would raise, in the principles of this debate, that issue, in particular because of the fact that if the registration is not granted the only appeal is to the Royal Courts, from my reading of the legislation, and I am wondering whether or not there needed to be some other form of adjudication, perhaps through the G.M.C. or something, I am scratching my head as to how to come to an understanding as to how the Royal Court are going to be able to determine whether or not somebody is getting penalised because of the fact they may have spoken out on issues and are now subsequently not getting registered because of ... because of not willing to toe the line, or stay within the lines, colouring outside of the lines. Currently there is a fee of £100 for an application to the Royal Court for the registration of a doctor; that does not even cover 2 visits or 3 visits to some patients; I think that is ridiculously low, and I know that will get passed on to the patients regardless, but I think that if there is going to be a fee administered by the Minister I think that needs to be realistic, I do not think the £100 is, and also I would like to say in the principles, although we will come to it in the legislation under Article 4, that the Minister is going to publish the register where all members of the public can see, she is going to be able to determine where that register will be published, and no doubt she has given some thought to that and I would hope and expect possibly that there would be an easy point of access from the internet where one could go on to the Health website or the Government website and see that the people they are receiving treatment from are verifiably registered. Otherwise, with those words of caution, which I am expressing through experience, I wholeheartedly support the Minister and her team and this legislation.

Deputy A.E. Jeune:

Excuse me, I did not interrupt the Deputy when he was speaking, but this is dealing with a G.P. registered in Jersey who is not up to standard, which seems to be what the previous speaker's problem is about. This is going forward, not looking back.

3.1.5 Senator F. du H. Le Gresley:

I would be grateful, when the Minister responds to Members' comments, if she could clarify for me how the members of the public will interact with her department when they have complaints about

malpractice to do with their G.P.s, because obviously, for this Law to be effective, the public need to know how they register complaints. Certainly historically I understand that matters of malpractice were dealt with by the General Medical Council and that a member of the public or a patient would have to complain to them. Am I to assume therefore that, with the new legislation, if a patient was dissatisfied with the treatment from her general practitioner that he or she would make a complaint to the Minister or one of her officers?

3.1.6 Deputy I.J. Gorst of St. Clement:

Yes, I just rise to also welcome this piece of legislation. As I said yesterday, it is part of a package and these pieces of legislation are being amended appropriately to allow us to get where we wish to with regard to how we deliver health services to our community. It is my understanding that in fact this Law needs to be updated to, in a way, link in with the procedure that the G.M.C. has and it allows for a local body, under a piece of local legislation where medical practitioners have to be licensed appropriately in Jersey. But that is all tied-in with their licence by the G.M.C.; they will have to prove to their professional body that they meet minimum standards. In order to step into this hierarchy - if I can call it that - of appeal or of professionalism, there has to be some local legislation and this local ... I want to use the word "Competent Authority" because that is what we use in finance, but in fact it is "Responsible Officer". So an individual, as I understand it, who wishes to make a complaint about a Jersey practitioner will be able to either then lodge that complaint with the Responsible Officer in Jersey - that person will have to be appointed, it will in effect be an independent role, to all intents and purposes, with the responsibility for this particular area - or they could still lodge it with the G.M.C. and the G.M.C. would just pass it down the triangle, as it were. It could then be investigated at the local level, and if it is serious then it moves back up that triangle and the G.M.C. - the professional body - makes the correctly medically-informed opinion and then it can come back down again. In order for us to ... one of the issues that we needed to address when we were considering this whole area was how can we leverage what is already happening in the United Kingdom and not re-enact it and bring it all here and have a top-heavy reproduced legislation here. That is the approach we have gone for, but we do have to have this minimum - and it is the minimum that the Minister is bringing forward now - which will allow us to access all the other mechanisms that are already in place in the U.K., so I fully support this and I ask that Members give it their support as well.

3.1.7 Deputy R.C. Duhamel:

Just a quick point, with our schools beginning to offer opportunities to our students to move towards international qualifications, and notably the European Baccalauréat - the International Baccalauréat - will the Minister be giving some thought as to whether or not European registration and qualifications will be an alternative route to employing doctors at some stage in the future in order to give a flexibility to the revision of the health service that is being undertaken at the moment?

The Deputy Bailiff:

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

3.1.8 The Deputy of Trinity:

I thank those who have spoken. I think Deputy Gorst answered a few questions for Senator Le Gresley, and just to confirm that it is the Responsible Officers and there will probably be one in the hospital and one for the primary care body, because that is important. That is our first level, as Deputy Gorst says, before ... if it can be looked at locally, which is so important, and the problem sorted out quickly and efficiently, without that escalation to the G.M.C. But if it is serious then it will be straight to the G.M.C., no questions about that. I thank Deputy Jeune for her support and again I hope that answered the questions about the Responsible Officers. Senator Ferguson: it is a Order, not a regulation, to allow the Minister to have some flexibility because Orders can change

from the G.M.C. and they can change the revalidation of the performance - whatever changes - so it allows the flexibility without bringing it back as regulations. Senator Le Main: yes, we want ... it is important that we get the right G.P.s and we get the best G.P.s to be able to give the best medical care that we can offer. With Deputy Le Claire's caution for patients, it is important that we do have this in place. We need to make sure that all doctors, whether they are in the hospital or out in the community, are fit to practise, and provided that they get the right performance guidance and they have an annual appraisal, they will be revalidated and that is the most important thing. He mentioned some things about serious case review and specific cases. He needs also to think that alongside any of this, there is the States of Jersey whistle-blowing policy and that is still there and that should be referred to by any employee of the States of Jersey. Deputy Duhamel, all our doctors will have to be registered sometime with the G.M.C., so if they have a significant qualification, *et cetera*, and they go through the G.M.C., then there is no reason why they cannot, as long as they meet the set criteria. I make the proposition.

Deputy A.E. Jeune:

If I may, the Minister has not satisfied my question as to where in the Law it explains exactly what or who the statutorily-appointed Responsible Officer will be.

The Deputy Bailiff:

Minister, I think the question was whether or not you will be exercising your powers by Order under paragraph 10C if that is adopted.

The Deputy of Trinity:

There will be an Order that there will be Responsible Officers who will make recommendations to the G.M.C. about each doctor's revalidation.

Deputy A.E. Jeune:

So who exactly might that be? I mean could that be just an administrator?

The Deputy of Trinity:

No, the Responsible Officers will probably be one of the medical directors for the hospital and there will be a medical officer appointed by the Minister for the primary care body. As Deputy Gorst said, it could be someone from off-Island as an independent.

The Deputy Bailiff:

The principles are proposed. Those Members in favour of adopting the principles kindly show. The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the principles of the Medical Practitioners (Registration) (Amendment No. 4) Law and I ask the Greffier to open the voting.

POUR: 41

CONTRE: 0

ABSTAIN: 0

Senator T.A. Le Sueur
Senator P.F. Routier
Senator P.F.C. Ozouf
Senator T.J. Le Main
Senator F.E. Cohen
Senator A. Breckon
Senator S.C. Ferguson
Senator B.I. Le Marquand
Senator F. du H. Le Gresley
Connétable of St. Ouen
Connétable of St. Helier
Connétable of Trinity

Connétable of St. John
Connétable of St. Saviour
Connétable of St. Peter
Connétable of St. Lawrence
Connétable of St. Mary
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy R.G. Le Hérisier (S)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy of Grouville
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy P.V.F. Le Claire (H)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy K.C. Lewis (S)
Deputy I.J. Gorst (C)
Deputy M. Tadier (B)
Deputy A.E. Jeune (B)
Deputy T.M. Pitman (H)
Deputy A.T. Dupré (C)
Deputy E.J. Noel (L)
Deputy T.A. Vallois (S)
Deputy M.R. Higgins (H)
Deputy A.K.F. Green (H)
Deputy D.J. De Sousa (H)
Deputy J.M. Maçon (S)

The Deputy Bailiff:

Minister, how do you wish to proceed? Sorry, before we come to that, the question of Scrutiny. Chairman of the Health, Social Security and Housing Scrutiny Panel, Deputy Southern, do you wish to scrutinise this legislation?

Deputy G.P. Southern of St. Helier (Chairman, Health, Social Security and Housing Scrutiny Panel):

No, thank you, Sir.

The Deputy Bailiff:

Minister, how do you wish to proceed?

The Deputy of Trinity:

Can I try Articles 1-3 and then 4, 5, 6 and 7 and 8?

The Deputy Bailiff:

You are taking Articles 1-3 first?

The Deputy of Trinity:

Yes, if that is all right.

The Deputy Bailiff:

Very well.

3.2 The Deputy of Trinity:

Article 1 makes a link with the 1960 Medical Practitioners Law, the principal law. Article 2 makes some changes to definitions in Article 1 of the principal law, these changes include the Minister for Health and Social Services becoming the registrar. Article 3 substitutes Articles 2, 3, 4 and 5 of the principal law. The new Article 2 makes it explicit that a person may not practice medicine in Jersey unless they are registered to do so; it states that doctors should not hold themselves out as having any specialist qualification or title unless they have the relevant qualification. It also makes clear that doctors may only practise in line with any of the conditions imposed on his or her registration in Jersey. The new Article 3 concerns the new requirement of the Minister to maintain the Register of Medical Practitioners, including removal from the register where appropriate, such as when a person has died, cancelled their registration, or had it cancelled for whatever reason. The new Article 4 requires the Minister to make the list of registered medical practitioners available for viewing by the public; this will include the registered doctors' medical qualifications. The new Article 5 concerns applications for registration to be to the Minister for Health and Social Services instead of at present to the Royal Court. The new Article 5A describes the registration process. The Minister must register an applicant who fulfils the conditions for the registration. The Minister may prescribe these by Order. The new Article 5A also describes the process if an applicant is deficient and the right to appeal against refusal of registration.

[11:45]

The new Article 5B gives the Minister the power to impose conditions of registration. This is a measure to protect the public. The current situation is that, although the General Medical Council can place conditions on doctors' practise, for instance if they have been a subject of fitness to practise investigation, these cannot be translated on to a doctor's general registration ... sorry, a doctor's Jersey registration. The Royal Court can only remove or suspend registration at present. The new Article 5B also allows the Minister to make Orders that will for instance require practitioners to comply with any condition imposed on their registration in the U.K. and require practitioners to notify the Minister of any change in their registration status in the U.K. At present this is not currently the case. The new Article 5C simply requires the Minister to issue a certificate to a registered medical practitioner. The new Article 5D requires practitioners to make an annual return to the Minister, this will be crucial in keeping the register up to date. The basic information required will be prescribed by Order, likely to include changes in name, address, qualifications, *et cetera*. I will stop there.

The Deputy Bailiff:

Articles 1 to 3 of the draft law are proposed and seconded. **[Seconded]** Does any Member wish to speak on those articles? Deputy Power.

3.2.1 Deputy S. Power:

I am struggling to follow some of this because the Minister went up to Articles 3, 4, 5, 5A and 5B. But my question is this, and it was I think Deputy Jeune attempted to ask the same question, so my question is, how will this register and registration be maintained? The Minister in her opening speech on the principles said that: "The live Register of Medical Practitioners will be maintained by the Minister." She then went on to refer to: "This information will be supplied to the General Medical Council and that the local register would also be maintained or supplied by the Judicial Greffe." So my question is this: how does this work within the office of the Minister? Who will have responsibility within the office of the Minister to maintain this? She has referred to the Medical Officer of Health and I am unclear in my mind how the register and the maintenance of the register and the registration process works. If she could clarify that I would be most grateful.

3.2.2 Senator T.J. Le Main:

I refer to 5B and 5C, Conditions of Registration and the Certificate of Registration. I cannot see, and probably I have not read it somewhere, but it must be somewhere, the condition placed upon a Certificate of Registration, is there ... will the practitioner be made to publicly display that in his premises: (a) a Certificate of Registration; and (b) if there is a condition attached, so the public at least would become aware that practitioner has in fact conditions placed upon his registration?

3.2.3 Deputy P.V.F. Le Claire:

The Minister, when I spoke on the principles, nodded when I was talking about making the information published on the internet but she did not respond verbally to that. As this is in one of the articles, maybe she could do so now as to whether or not that is the means as to how it will be advertised to the public. The other point I have to make is that I am, as I expressed in the principles, through the conditions of registration, just a little concerned that perhaps what we may need to be thinking about in the future - this does need approving today - but I think what we need to give some thought about to in the future is, if there are going to be conditions imposed by the Minister through one of the officers who is responsible in Health, for example like the director of the hospital, then one has to really question quite significantly the issues in relation to the ability for the hospital to derive income by having private medical practices within the ambit of those consultants retained within the hospital and whether or not there would be seen to be some issues in relation to potentially conditioning licences in such a way that could be seen to be anti-competitive in the private sector where an individual might wish to enter into the Island and then may not find themselves registrable or conditioned in such a way that they feel they may have to have recourse to the Royal Court. I am a little concerned about the long term - short term this is correct; long term I think we need to possibly be thinking along the lines of some independent authority to ensure that the ... to ensure that the Minister for Health and Social Services and her operational activities are not prejudicing the private sector in any way and also to keep her impartiality preserved, especially if it is something that could be taken through to the Royal Court. I would hope that maybe along the lines of ... I have been trying to come up with the name, the Deputy of St. Martin and Senator Breckon will no doubt help me, we have like the Jersey Independent Police Authority, and I am just wondering if, long term, I was hoping Scrutiny might ... I cannot see the chairman, but I am hoping a member of the Scrutiny Panel will take this on board. I think long term we need to be maybe extracting this registration and licensing and conditioning away from the Minister, although they have the expertise to analyse, I still believe that there is an issue in relation to past experience, and maybe an issue in relation to future experience, where prejudice may be applied or at least there could be an argument that prejudice was applied in relation to the conditioning and the registering of people.

3.2.4 Senator F. du H. Le Gresley:

Article 3, with reference to the register, there are a number of situations where somebody would have their name removed from the register, for example (a) who has died, or (b) has requested cancellation. I would be grateful if the Minister could explain what happens when a general practitioner retires from general practice and does not voluntarily request the cancellation, how long would their name stay on the register if they are not practising from day to day? Also, my other question is, what would happen in a situation where a sole practitioner brought in a locum from the U.K. to cover them for a holiday period or sickness? Would that locum have to be required to register?

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

I would just like to respond to the comments made by Deputy Le Claire with regard to reference to Scrutiny and to assure the House and the Minister that I am very happy to recommend that it be a legacy of this panel to the next panel that the comments made by the Deputy be considered.

Deputy P.V.F. Le Claire:

I thank the Constable.

The Deputy Bailiff:

Does any other Member wish to speak? If not, then I call on the Minister to reply.

3.5.6 The Deputy of Trinity:

Regarding the Responsible Officers and to pick up a point that Deputy Le Claire made. The list is not going to be maintained by the Judicial Greffier; that is the problem at the moment, the list is with him and not updated. The Responsible Officers will be professional leads advising the Minister, so it will not be the hospital director, it will be medical professional leads advising the Minister, and these will have specific roles and responsibilities as set out by the G.M.C.; it is not the Minister setting them out, it is the G.M.C. setting it out. Regarding putting in easy access, yes, it is for Islanders to see about G.P.s' and doctors' qualifications, yes, it will be on the internet and widely available, because it is important that Islanders feel safe with any doctors or G.P.s that they see, and if there are any conditions set to their licence, then that will be put out as well. Long term, as I have indicated, authority... well that is something perhaps that we need to see how things go. If a G.P. retires, every year, like with the nurses and other allied health professionals, they have to make a submission every year to be able to stay on the register, and it is left to that professional to be responsible to make that submission, so, if a G.P. retires then obviously he will not be making an annual registration because there will probably be a fee to it, as there is with ... no, there is not one with nurses. But, if they do not make that annual form, then they just get taken off the list. Regarding a locum, yes, they have to be registered. Thank you.

Senator T.J. Le Main:

Did the Minister, in response to my questions, say that the registration of a practitioner will be put on the internet for public consumption, and also any conditions that would be attached to that, you know, to that registration?

The Deputy of Trinity:

I did say that, and as a way of ... at the moment, if the G.M.C. puts conditions on to any G.P.s, there is no way of us being able to enforce those conditions over here, so yes it will be put on.

The Deputy Bailiff:

Articles 1 to 3 of the draft law are proposed. All Members in favour of adopting them kindly show. Those against. The articles are adopted. Minister, do you wish to propose the remaining articles?

3.6 The Deputy of Trinity:

Yes. Article 4 of the amendment we are debating simply widens the scope of Article 7 in the principal law. It is already an offence to forge, or allow any person to use, Certificates of Registration. It also becomes an offence to forge any certificate or documentation relevant to the process of registration. Article 5 of today's amendment substitutes Articles 8, 9 and 10 of the principal law. These articles concern removal or suspension from the Jersey Register under certain conditions, such as removal or suspension from the G.M.C. Register. The new Article 8 introduces a new right for a practitioner to request that his or her registration is cancelled, such as when they are leaving the Island. This would release them from the requirement of submitting an annual return. The new Article 9 requires the Minister to cancel a practitioner's registration in certain circumstances and confers a discretion in other circumstances. The Minister must cancel the registration if it is clear the requirements are no longer met, if registration was fraudulently obtained, or if the practitioner had failed to submit the required annual return, despite a 60-day notice. The Minister would have had discretion to cancel a registration, for example, because of an offence or conduct making the person unfit to become a medical practitioner; failure to comply with conditions imposed; if there is behaviour contravening a condition imposed by the G.M.C. In all cases, the practitioner will be given the opportunity to make representation before their

registration was cancelled. If cancelled, the Minister would require reasons and the new Article 10B would give the right of appeal to the Royal Court. The new Article 10 says suspensions and fitness to practice. At present in Jersey doctors can only be suspended usually as a measure to protect patient safety if they are an employee. There is no such protection for patients and the public regarding private practitioners. Under the present law, such doctors can only fully practise unrestricted or not at all. This is not in either doctors' or, more importantly, patients' interests. The new Article 10 requires the Minister to suspend Jersey registration if the doctor's authority to practise, by which they are eligible for Jersey registration, is suspended. At present, this would be if a G.M.C. licence to practice was suspended. The new Article 10 gives the Minister the power to temporarily suspend; these are to deal with situations where it is believed there are grounds for cancellation of registration but where there is the best interests of the doctor, especially their patients, for the doctor to be away from work while inquiries were made and a conclusion reached.

[12:00]

The article includes a duty for the Minister to notify the practitioner of suspension and the right of appeal. This will remedy an important deficiency that has always been ... has already caused problems in Jersey. In a number of incidences, practitioners have been able to continue to practise medicine pending G.M.C. fitness to practise procedures, even though there were significant concerns about their safety in continuing to work during these periods - which are often protracted - and indeed the safety of their patients. Introducing a local level of regulation such as this is a key essential element for Jersey to continue to be recognised with the G.M.C. as a well-governed setting where doctors can keep their G.M.C. licences revalidated. It is also the first stepping stone in delivering the local regulation commitments of proposition 36. The new Article 10A simply entitles a practitioner to apply to the Minister to reconsider if there has been a direction about the time period for which they should not be registered. Article 10B simply addresses the rights of appeal and time period. Each decision that the Minister makes as registrar can be appealed to the Royal Court. The new 10C concerns fitness to practise and is specific to the necessary elements doctors in Jersey need in order to be eligible for revalidation of their licence to practise by the G.M.C. It introduces the concept of the responsible officer who will make recommendations to the G.M.C. about each doctor's revalidation. The G.M.C. has confirmed that it will accept recommendations from the Jersey Strategy Appointed Responsible Officers as equivalent to such officers in U.K. settings. This article would enable these subsequent Orders to be drawn up to specify the roles, accountabilities and responsibilities of responsible officers. These will be broadly equivalent to those in the U.K. Article 6, in the amendment, serves to amend Article 11 of the principal law about junior doctors who are only provisionally registered with the G.M.C., to be exempt from the requirement to register separately in Jersey. This does not make any substantial change but the new wording enables changes in U.K. law to be reflected here more quickly and simply in the future. Finally, Article 7, in the amendment, considering inserts new Article 12A, in the principal law, it gives the Minister power to subscribe the conditions for Jersey registration and to make any transitional arrangements once the amended law is enacted.

The Deputy Bailiff:

Are those articles seconded? [**Seconded**] Does any Member wish to speak on those articles?

3.6.1 Deputy P.V.F. Le Claire:

Again, this is right for now and I applaud the Minister, I do not wish her to take away from this debate my comments in a negative vein. However, under suspensions, in particular, we have seen most recently a very long and protracted issue in relation to our doctors that we employ through the States Employment Board to the Minister for Health and Social Services how their suspensions have been treated, how doctors within our States employment have fallen, or fell, at various points

of their employment to various levels of suspension. I have been, as the Minister knows, in discussion with her about this on more than one occasion in quite high level conversations with her and her officers, also with lawyers in respect to more than one consultant of late. I think that it is, again, another issue for Scrutiny to keep a roving eye on for the long term for there to be a consideration about equality of alms, parity, the commercial reality and the medical realities of what happens. Obviously, patient safety is paramount and everybody would subscribe to that, as do I. Obviously, the right procedures and checks and balances are necessary, absolutely. The requirement to continue to revalidate, as we have recently passed in this Assembly, is completely in the right direction and the Minister, again, is to be applauded. But in relation to this I just draw the line in the medium to long grass. When one looks at Article 10 in relation to suspension and one draws back from that, from Article 5(1)(a) back in to 10A and 10B, I would suggest that there are potentially issues in relation to the conditioning of somebody that is registered that could be employed or may not be fairly employed to the point where they are suddenly suspended. Where conversely in the public sector, we have, and have had, and probably still do have, consultants and doctors that are not necessarily suspended but they are limited in terms of practice but they are still employed, they are still earning money, they are still able to pay their bills, they are still able to continue their training, they are still able to engage. I think we need to be careful that in introducing this legislation we are also not going to trip those people up in private practice that would prohibit them from attaining revalidation. Because, sometimes, you have to be ... for example, one recent case that we had, we discussed, and the Minister was very helpful with that and I thank her for that, we had a case where had the consultant not been allowed to be validated then with the retraining that was necessary it would not have been possible. So there is some very minute understandings, the Minister knows about these. I have become ...

The Deputy Bailiff:

I am sorry to interrupt you but is there something about the language of the proposed Article 10 which is troubling you because if so that is what you should be addressing?

Deputy P.V.F. Le Claire:

That is what I am trying to address. The suspension of the person's registration under 10A is such that it gives me concern that the practicality of this in terms of how one then relates back to 5(a)(i): "The applicant fulfils the prescribed requirements for registration." For those sorts of things, if you fulfil the requirements for registration then you are okay to practise and if you do not fulfil the requirements for registration then you are suspended. I am just questioning the level of detail and thought and language within these laws that is available for us or anybody in the medical profession to determine if they are sufficiently robust enough for us to be able to say that there is going to be a reasonable conditioning of a registration prior to suspension. Can it be clearly seen that the law follows in such a way that the private individual if they fall foul of a potential small area of problem that they are not suddenly automatically suspended for 3 months, possibly then devalidating them from continuing in practice for evermore. So I think, as I was trying to say, this is okay for now but I think long term scrutiny and certainly the medical profession, as a whole, and on their behalf, us, as patients, have to be wary of the fact that in my experience we are not ... suspension is no clear cut thing.

3.6.2 Connétable J.L.S. Gallichan of Trinity:

In 10C would the Minister say if age will be taken into account as fitness to practice?

The Deputy Bailiff:

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

3.6.3 The Deputy of Trinity:

Just to try and add a bit of clarity to Deputy Le Claire's concerns. The doctors in the hospital, yes, they had to be revalidated and they have to go through the same, as with any doctors. But where

they are different from general practitioners they come under the terms of their employment law so that regarding suspensions it was all under the terms of employment law. But with G.P.s, at the moment, if there was a concern about G.P.s whether it is a minor concern or a really serious concern then at the moment that goes straight up to the G.M.C. and it could take months before it is sorted out. The idea of this, and it is one of the G.M.C.'s requirements, is that we should have a responsible officer to deal with that immediately if it is necessary because no one wants to suspend any doctors if they can help it because the idea is they need to be safe and patient safety is important. The 3-month temporary suspension allows inquiries to be investigated, concerns to be addressed. It could be something quite simple. If it is not, then obviously, immediately, it goes up to the G.M.C. I hope I have tried to put Deputy Le Claire's mind at rest. As regarding age and fitness to practice every doctor, whatever age, will have to go through revalidation, will have to do performance criteria, annual appraisals, and if they go through that they will get fitness to practice, the age is no barrier but they have to meet those revalidation criteria, that is the most important thing and annual appraisals. That is it, I think.

The Deputy Bailiff:

Very well, Articles 4 to 8 are proposed. Those Members in favour of adopting them kindly show, those against. The Articles are adopted. Do you propose the Bill in the Third Reading, Minister?

3.7 The Deputy of Trinity:

I do, and before I ask for appel, I would just like to thank the House for their support, not only in this one but in the medical prescribing too. It is an important milestone that has happened these last 2 propositions and it will change healthcare in Jersey not only within the hospital but out in the community and that is the most important thing and improved patient care. I would like to thank all the officers involved in the 2 propositions and the Law Officers and law drafting. While the Assembly was debating the P.30 last year I did give a commitment, along with the Minister for Social Security, to bring this proposition to update medical practitioners. This has been done and I just thank everyone for their support, especially the Minister for Social Security.

The Deputy Bailiff:

The Bill is proposed in Third Reading. Seconded? **[Seconded]** Does any Member wish to speak? The appel has been called for. I invite Members to return to their seats and invite the Greffier to open the voting.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				

Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

**4. Draft Social Security (Amendment of Law No. 1) (Jersey) Regulations 201- (P.110/2011)
The Deputy Bailiff:**

We now come to P.110 - Draft Social Security (Amendment of Law No. 1) (Jersey) Regulations 201-, lodged by the Minister for Social Security. I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

The Draft Social Security (Amendment of Law No. 1) (Jersey) Regulations 201-. The States, in pursuance of Articles 50 and 51 of the Social Security (Jersey) Law 1974, have made the following Regulations.

The Deputy Bailiff:

Minister, do you wish to propose the principles?

4.1 Deputy I.J. Gorst (The Minister for Social Security):

The proposals before Members today are the introduction of a new upper earning ceiling of £150,000 for liability to pay social security contributions. A new rate of contribution liability at 2 per cent of earnings between the current ceiling of around £44,000 and this new ceiling for employers, self-employed and those with little earnings but high unearned income. These changes will yield an estimated additional £7 million in social security contributions but will, of course, cost the States, as employers, an extra £700,000 in staff costs. The £7 million will be paid into the Social Security Fund however the changes before Members will also reduce by the same amount the States grant to the fund more commonly known as supplementation. The beneficial effect of the changes is thus seen in the financial position of the States while the funding position for the Pension Fund remains neutral. The proposals arise from the Fiscal Strategy, led by my colleague, the Minister for Treasury and Resources, although, as widely publicised, do not include an increase at this time for the contribution liability of employees earning more than £44,000.

[12:15]

We shall be debating proposals from Deputy Southern to introduce a 2 per cent charge on all earnings between the 2 ceilings for employees as well as a further 4 per cent charge on employers over the subsequent 2 years. In addition, I am proposing a change in the formula to calculate how the States grant is proposed which, while not impacting on how much is paid into the fund over the medium term, provides certainty to the budget required in the coming year at the point of agreeing the Business Plan. Small changes within the legislation proposed will also allow me to be able to introduce new rules for those establishing their own business, which will result in liability for self-employed contributions being initially based upon estimated earnings from that new enterprise as opposed to currently where previous earnings from employment are used as a basis for assessment. This has often been cited as a barrier to people establishing their own businesses and I am delighted to remove that barrier, be it perceived or otherwise. So much of the debate to follow will, I am sure, concentrate not on what I am proposing but why I am not proposing further increases now, which will make this debate quite unique given that it is, essentially, a proposal to increase taxes. Hence, I would like to spend some time setting out my position on the matter as the Minister for Social Security. The social security old age pension, was essentially established as a social contract between employees, employers and the States each bearing one-third of the total cost of contributions. The reason for the employees and employers carrying their share is obvious but perhaps less obvious is why the States were a party to this so-called contract but the answer is straightforward. The scheme is established on an insurance principle such that contributions are payable at the same amount by all that are in the scheme, the rate currently of 10.5 per cent of earning ceiling, currently the equivalent of £44,232 per annum. The current standard contribution due in respect of every worker is, therefore, the equivalent of £4,644 per annum. However, some 70 per cent of workers earn less than this amount. By statute it is the responsibility, as things stand, of the States to make up the shortfall in their contributions such that they receive pensions at the same amount as those on higher earnings. This is done through the States grant into the fund. Many baulk at the size of this supplementation bill and want the States to pay less. Yet this bill has grown at no less than that faced by hardworking men and women. Employers and employees have seen similar, if not greater, rises in their contributions yet we will not be cutting their liabilities. Rises in supplementation are due to the effect of the success of our economy before the current recession, which came through in the shape of increased employment and rises to earnings as well as increases to rates made a decade ago to get ahead of the costs of the ageing demographic. As contribution rises become inevitable supplementation will rise similarly. I recognise that Members will regard these increased costs as unacceptable and will expect that alternative solutions to fund the rising cost of supplementation are found. Any such solution bluntly amounts to someone else having to make good this shortfall if we all accept, as I do, that low to middle earners should continue to be subsidised. With all of these pressures to be accommodated from the social security contributions it may seem odd that I am standing here today proposing that quite apart from future rises being spread more evenly the States current bill for supplementation be reduced and made good by contributors. I want to make it abundantly clear that while I believe the future rises in supplementation, and contributions more generally, will have to be funded by a different formula I do not believe that the States should be renegeing in the current contract were it not for the quite exceptional economic conditions that we find ourselves in. The financial position, as presented in December last year in the budget, was such that we all had little choice but to assist in finding a solution. While funding pensions is one of the highest priorities for funding it is not the only priority. Given the economic and fiscal situation, as presented in December, I cautiously agreed to an additional 2 per cent of contributions to be paid on earnings above the ceiling by both employers and employees to assist in addressing the exceptional circumstances we faced as I did in taking £6 million out of the Health Insurance Fund in both 2011 and 2012 to fund vital services of health and social services while a sustainable plan for healthcare in the Island was and is identified. Upon discovering that the financial position of the States had improved, thanks to a small increase in the tax forecast, I became less content that all of these measures were necessary at this point. Not only that but I am only too acutely aware of the increased burden facing contributors in the near to

medium term to pay for pensions, long-term care and the rising healthcare costs together with the fragility of the economic recovery. For all of those who believe that I have let high earners off the hook, I have not. I have merely put back the date that they will face these and larger increases to contributions and I intend that these increases will be borne not only by higher earning employees, as per the amendment, but also by much higher earning partners of law firms and accountancy practices and 1(1)(k)s. But Members need to remember that the proposed increases above the ceiling do not only apply to what we might call so-called “high earners” they apply to those that many refer to as middle Jersey. For these reasons and remembering a central principle of the Fiscal Strategy, we will only increase taxes to the extent necessary. The political steering group which oversaw the development of the proposal before us decided not to proceed with increases in contributions for employees at this time. As I have made clear this is a temporary delay. However, unless the recovery in the economy and tax revenues do not materialise, forcing a rethink, I am determined that other increases are first and foremost made to provide sustainable funding for the pressures brought by an ageing population. I would ask that Members do not use the amendment as an escape route from the difficult decisions necessary to achieve the savings target that the Assembly has previously agreed to. To do so would leave us far less able to meet the real and pressing problems associated with the ageing demographic and the significant pressures that this will place upon the social security scheme and contribution revenue streams into the future, not least, in light of the reducing people of working age forecast into the future.

The Deputy Bailiff:

Minister, you are certainly able to say why you are not doing something but when you start directly addressing the amendment in the context of the principles of your regulations I think you are going too far.

Deputy I.J. Gorst:

I was hoping that I would be able to say very little under the amendment but there we are, I am coming towards to the end and leaving off on that subject. Returning then to the specifics of what I am proposing. A new upper ceiling to contributions is proposed at £150,000 further to a consideration of both the forecast estimates of additional yield at differing ceiling levels and the potential impacts upon the relative contribution burdens in comparison with competitor jurisdictions in, particularly, Guernsey. A balance was struck between the 2 arriving at an upper ceiling of £150,000. In making the proposal to limit liability to employers for the additional 2 per cent on earnings between the current ceiling and the new upper ceiling I have taken into account, most particularly, that individuals - as opposed to businesses- will be those facing contribution increases to fund long-term care starting in 2013. I intend that such a rate rise will be around 1.5 per cent which will be levied, most certainly, across all earnings up to £150,000 and may well be applied at a higher rate above the existing ceiling. The package that I have proposed, with the support of the Council of Ministers, is an appropriate balance between the need to assist in resolving the short-term financial position that we find ourselves in with the need to ensure that structures are in place to preserve the long-term sustainability of our pension scheme and otherwise provide for our old age. I commend the principles to the Assembly.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** The principles are therefore now open to debate. This is a curious position, if I can say this in advance to Members, that we have some amendments of principle which have already been brought by Deputy Southern and if I may say so it really would be helpful if we did not have that debate twice. While I can see that it is difficult to contain the debate on the principles as proposed by the Minister I would suggest to Members that the appropriate time to have the debate about Deputy Southern’s amendment is when we come to Deputy Southern’s amendment.

4.1.1 Deputy G.P. Southern:

Mindful of those words, nonetheless I have to suggest that I have to address the principles of the amendment equally. I will try not to stray into the fact of the contents of the amendment, as much as I can, but I would beggar a little indulgence from the Chair. I sat there and listened to hear the loud trumpet of the elephant in the room and I heard only a little distant echo because I was looking for the word “supplementation” in the Minister’s speech and it was mentioned twice, I believe. So 2 little mentions of supplementation and a great deal of concentration on the Fiscal Strategy and the Comprehensive Spending Review that we passed in the budget last year. The reality is, however, that we do have to deal with the supplementation issue and if Members will turn to my amendment they will see on page 7 the growth and growth of supplementation. Now, I first tried to get this House to address the issue of supplementation in 2020, when I first came to the House and the House, at that time, failed to do so. But if one looks at the second line of that particular table one can see that supplementation in 1998 stood at £25 million and had doubled to £50 million by 2004 and its inexorable rise continues to this day and it now stands at around £66 million; £66 million in a time when the economy is thriving and booming is tolerable, perhaps. But now that we have hit straightened times I would argue that it is not. Whatever happens with our taxation, or our spending review, or taxation policies, we have to, at some stage, deal with this £65 million plus and that will not go away. The elephant will not go away. So the central issue is supplementation. I ask Members to bear that in mind when they come to look at where we are now, it has got mixed into the fiscal spending, Fiscal Strategy Review, almost by accident because we have hit hard times and so we have to take a look at all of our taxation policies. Now, when we passed the budget, back in December, we were sold a package by the Minister for Treasury and Resources; it was clear. The package had to be balanced and fair.

[12:30]

If we look at the words of the Fiscal Strategy Review which was conducted we find the words “of involve”, there seem to be 2 widely held perspectives. One, which emphasises the high cost of living for those on lower incomes and wants to see a more progressive taxation system and another perspective of concern that increased taxes on the wealthy will lead to Jersey losing financing services and affluent residents to international competitors; 2 issues there. As a result of which the Minister for Treasury and Resources had the following to say, and listen carefully to what was sold to us back in December: “This leaves me with a very difficult balancing act, no single measure will achieve the twin objectives of raising money in a fair way where the better off pay a higher proportion of their income while also minimising the impact on the economy. To deal with the latter point, the F.S.R. (Fiscal Strategy Review) tax increases announced today will be phased-in over 3 years with greater increases in later years.” Very clear there, raising money in a fair way where the better-off pay a higher proportion of their income. It went on: “An important aspect of fairness is that the better-off contribute more that is why I have asked the Minister for Social Security to bring forward proposals to introduce 2 per cent social security contributions above the ceiling for both employers and employees from January 2012.” A clear marker there to say: “That I am achieving fairness by this balance.” He then went on to clearly define 2 key elements of the F.S.R., this is what we passed back in December, the introduction of 2 per cent social security contributions above the ceiling for employees and employers from January 2012 and the raising of G.S.T. (Goods and Services Tax) from 3 per cent to 5 per cent with compensation for those on low incomes from 1st June 2011. That is the context in which this House, this Assembly, has made a whole series of decisions. We decided, for example, to increase that rise in G.S.T. to 5 per cent with the balancing thing that social security was going to come to balance it. To oppose a higher rate of income tax for high earners, we rejected that because social security was going to come and get something there, to support an increase in savings to £65 million over 3 years, part of the package, £65 million to balance the extra taxation, to oppose the removal of G.S.T. on food, again taken in the light that it is a regressive tax that something progressive was coming and to oppose

any delay in raising G.S.T. So no delay because we know that we are going to have a fair measure later on. What has happened, what has changed since then when we made all of those decisions in the name of fairness and balance? What has happened since then is that we have had a slight improvement in the fiscal position - the financial position? We have found £14 million extra on 2010's revenues. That increase, just turn to the description of it: "That higher than expected tax receipts from business and personal income tax of £40 million, this figure is within the prudent forecast range of plus or minus £15 million." It is within the estimating error, it is not an enormous amount; it is about 2 per cent of the total revenue, so it is within the edge, a minor, very slight increase. We do not know whether it is permanent, whether it will be here next year, the year after, we do not know whether it is temporary, but for 2010 we have found a little bit of extra money, therefore we can dismantle the whole package that we voted for, back in December, and say: "Phew, we do not have to do that, we have found a little bit of extra money, we do not have to do that because it might be a little bit controversial." I believe we should be sticking to our guns because I believe every Member of this House, when they were voting on all of those issues, including the Fiscal Strategy Policy, was voting in the light of fairness and balance on the promise that we were given. **[Approbation]** So my amendment 3 - my part 3 - addresses that issue directly. I then go further and start talking about employer contributions and there we come to an issue about: "Should we be doing this, what about our competitiveness, are we not hurting the wrong people?" In that context I refer Members back to the consultation process where we first started talking about increasing social security contributions and the statement, again, made in the consultation paper as follows, and this was: "Four options given to us to raise around £30million". £30 million worth of extra revenue and the statement was made: "Raising the ceiling on contributions would increase social security payments for higher earning employees although not out of line with those of our competitors in the finance world. Raising the ceiling for employers would also add to the cost of employing high earning staff although again it would not put us out of line with competitor jurisdictions." So the other argument that in changing the rules we are out of line with our competitors is likely to be used - it has been used - in the comments of the Minister for Treasury and Resources. If Members would briefly turn to those comments, I will just draw their attention to this competitive issue which, no doubt, will be raised during the debate. If we look at employee contributions we have heard from the Minister for Social Security that he does not want to go through with this commitment to raise contributions by 2 per cent because he is about to debate - and we are about to debate - raising contributions in 2013 by 1.5 per cent and that combination, he says, he does not want to consider. But in the graph on page 2 of the comments you can see clearly that up to £100,000, as annual salary, we have a red line, which is Jersey plus 3.5 per cent, compared to a green line of Guernsey, as current. The 2 lines are more or less contingent, they touch each other and, in fact, at the higher end our contributions are lower than Guernsey. He then examined, yes, it does indeed; contributions plus 3.5 per cent for employees go higher than Guernsey above £150,000 earnings. Then you look at that gap and think: "What does that represent?" It represents an additional 1 per cent of earnings at £150,000 a year. I think that is not uncompetitive, that is very close together and at 1 per cent, we are not going to see people who are high earners leaving *en masse*, not for 1 per cent. Talking about employer contributions - and here I am talking about parts 4 and 5 of my proposal - on page 3 of the comments what we see is Jersey including 2 per cent, Jersey including 4 per cent and Jersey increase of 6 per cent; so the 3 stages, 2 per cent in this document, the 4 per cent that I am asking for 2012 and 6 per cent that I am asking for 2013. The Guernsey figure comes above both the 2 per cent line - well above - and the 4 per cent line. Only with 6 per cent do we get slightly over the Guernsey charges so our main rival, if we are talking competition, and we are talking there about something that is well below 1 per cent difference. So right up to 4 per cent, perfectly safe, we are not coming anywhere near seriously damaging our competitive rates. So when we come to those please bear those rates in mind. So there we have the case for balance and fairness. It was the case that was sold to us back in December, the change has been relatively minor; we are not sure whether it is permanent or temporary. The competitive issues have been dealt with and the central issue of this tripartite

nature which the Minister for Social Security talked about in principle; has been broken by the Minister's proposition to charge an extra 2 per cent for those high earners in one particular aspect. So the principle has been broken, we cannot go back and say: "Oh, we must stick to our agreement, our contract that we took out years ago with workers in Jersey." The fact is we have to and the Minister, himself, has said this is only what I have instituted is a delay. He accepts it is inevitable that we are going to have to do something and I believe this is the way forward. I believe that if the Members support all of my proposition then we will be adding certainty for the coming 2 years to employers' positions and employees' positions for the next 2 years. So I propose my amendment.

The Deputy Bailiff:

You are not proposing your amendment yet, we are discussing the principles.

Deputy G.P. Southern:

I will sit down then.

The Deputy Bailiff:

But that really does make me focus. I probably should have stopped the Minister from saying why he was not proposing to do what he was doing because if the principles are rejected, Deputy, we will never get to your amendments because the whole of the regulations will fall if the principles are rejected. I just think Members ought to be quite clear about that, this is not a debate about the substance of your amendments; we will come to that at a later stage. It really would not be appropriate to spend time debating the amendments before we reach them. Members must be very clear that if the principles are rejected then we will never get to the amendments.

4.1.2 Senator P.F.C. Ozouf:

I can do it in 60 seconds. I just want to rise, if I may, to congratulate the Minister for Social Security on his speech because he explained, perhaps for the first time in this Assembly for some time since I have been here, the origins and the reasons for supplementation and its purpose and what it does. That is a very important background for the debate that we are going to go on to have. I have nothing further to add in terms of the principles of the issue, as you rightly say, the real debate is on the articles themselves and I will confine my remarks to that and propose the adjournment.

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

The adjournment is proposed. The States will stand adjourned until 2.15 p.m.

[12:43]

LUNCHEON ADJOURNMENT

[14:16]

The Greffier of the States (in the Chair):

Very well, the debate can resume on the principles of the regulations but before we start I must reiterate the words of the Deputy Bailiff before lunch that this is a debate on the principles. There will be ample opportunity to debate the amendments of Deputy Southern and the issues in those. So does any other Member wish to speak upon the principles?

Senator A. Breckon:

Just if I might declare an interest? I exchanged notes with the Deputy Bailiff before lunch and we have strayed into the amendment a bit and it is just that my partner is above the ceilings level so, obviously, there would be an effect on that, but I just mention that the Deputy Bailiff, he said to

anybody - well, to me anyway - to declare that interest but not to leave the Chamber so I am not rising to speak, I am just rising to say that.

The Greffier of the States (in the Chair):

I am sure there will be a lot of Members caught by the regulation. Does any other Member wish to speak on the principles?

4.1.3 Senator P.F. Routier:

Firstly, I would just like to comment about what I see as the gradual move away from the social contract we have had for many, many a year with our community. As the Minister said in his opening comments, it was originally set up so that it would be a third, a third, a third and that was, I believe, a very, very good principle that the people who were paying the full contribution were also helping to support those people who were not able to pay the full contribution and I believe that was a very, very good system. I have to say I am a little bit disappointed that today we are looking to move away from that principle a little bit. But these are tough times, they are times we have to make pragmatic decisions and although I am disappointed in this move I will be supporting it because I think, in this current state of finances, we have not a lot of option to us but to make this move. But I would make the comment that I would not want to see it go any further than what is being proposed at the present time. There is one very positive thing with this proposition which involves changing things for new businesses which, in my time as President and then Minister for Social Security, there were a number of times and there were people wanting to establish new businesses that were being caught with having to pay contributions on their previous earnings and that because they might have had fairly high earnings in previous years, they were then having to pay high earnings when they were establishing their business from the beginning. So, this, I believe, is a very welcome change which will help new businesses to get established in the first years. I believe what is being proposed here is essential, I am afraid, but these are tough times and I congratulate the Minister, in a roundabout sort of way, of having the courage to bring this forward because it is a very, very tough decision that we are being asked to make. So I will be supporting it but repeating again that I am disappointed we are moving away from the social contract we originally had.

4.1.4 Senator F. du H. Le Gresley:

In principle, I approve of most of what this piece of amended legislation is trying to achieve, with the exception, as per Deputy Southern, of the decision not to proceed with the extra 2 per cent above the ceiling and up to the new upper ceiling for employees.

The Greffier of the States (in the Chair):

We will get there in a minute.

Senator F. du H. Le Gresley:

The difficulty I have with that, I am not going to repeat what Deputy Southern said because he made the case very well, but when the Minister was speaking ... no, I think I need to continue, because this was what the Minister said when he was introducing the proposition. He said: "I am not letting the higher earners off the hook." Those are his exact words and: "This is only a temporary delay." But this conflicts with what the Minister has previously said in question time in this House because if he is saying he is not letting the higher earners of the hook, my interpretation of that is that we will eventually have the extra 2 per cent for employees and that money will reduce supplementation. That is my impression of what the Minister was trying to tell us this morning, yet in question time on 20th June he gave the clear impression that he did not want the employees to have this 2 per cent because he said: "If there is any improvement in taxes it should go into the pension pot." Again he said: "I am now of the opinion that those contribution increases when they come forward in due course should be protected for the Pension Fund." So, really we now have a conflict between the Minister for Treasury and Resources who wants the money to reduce taxation,

or supplementation, and we have a Minister who will only want the money when it comes from employees to go into the pension pot. So I am confused.

The Greffier of the States (in the Chair):

I call on the Minister to reply on the principles.

4.1.5 Deputy I.J. Gorst:

Thank you, perhaps I should say something about supplementation. Deputy Southern said I had not mentioned supplementation but I seem to remember mentioning supplementation at least twice and that is why I am mentioning supplementation again. However, I did spend quite a bit of my opening speech talking about supplementation although I did not spell out the word “supplementation”, I used a variable form and that is the grant that the taxpayer pays into the fund to supplement future pensions of low and middle earners. So I do not really think there is very much for me to say at this point. I thank the Chair for his leniency in allowing, perhaps, myself and Deputy Southern... I think that was appropriate to stray on to the area which is not necessarily the detail of the principles. I share the disappointment of Senator Routier that we are facing such difficult economic times that we are bringing forward proposals which will break that contract. Having said that, I do recognise that many members of our community have been asking for this and asking for those who are above the current ceiling to be paying higher up their income scales, and that is what this will, in effect, give effect to. I do not really want to say too much about what Senator Les Gresley said, I do not think there is any confusion. I think there is a healthy tension between departments and I think that the States Assembly, rightly, should make those decisions and I did. Perhaps it was not that clear in my opening comments but I thought that I reiterated and made quite clear what my opinion was and therefore I commend the principles to the Assembly.

The Greffier of the States (in the Chair):

All those in favour of adopting the principles, kindly show?

Deputy I.J. Gorst:

Could I have the appel?

The Greffier of the States (in the Chair):

Sorry, the appel is called for and the vote is for or against the principles of the regulations. If Members are in their designated seats I will ask the Greffier to open the voting.

POUR: 39		CONTRE: 2		ABSTAIN: 0
Senator P.F. Routier		Deputy S. Pitman (H)		
Senator P.F.C. Ozouf		Deputy D.J. De Sousa (H)		
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				

Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
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)				

The Greffier of the States (in the Chair):

Deputy Southern, this falls within the remit of your panel but I imagine you ...

Deputy G.P. Southern ((Chairman, Health, Social Security and Housing Scrutiny Panel):

I, personally, have had a good examination of it and do not wish to.

The Greffier of the States (in the Chair):

Very well, we will proceed. Now, just to inform Members obviously there is a substantive debate on the amendments brought by Deputy Southern which effectively occurs in relation to his amendments to Regulation 13 and then the new regulations that come after Regulation 14. So we are going to need to jump about a little bit. I will guide Members through but just to notify Members in advance that, in the initial stage, the Minister will not be proposing Regulations 3, 7 and 12 because we will need to assess the impact of any consequential changes from Deputy Southern's amendment so I will guide Members through, but I will first of all ask the Minister simply to propose Regulations 1 and 2.

4.2 Deputy I.J. Gorst:

Thank you for your helpful explanation, it saved me a task there. I think, together with your good officers, it was felt that we should take the smaller regulations and then allow a substantive debate upon Deputy Southern's amendments so that we all knew where we were and we did not get bogged down, as it were, in some of the consequential issues. So, if I propose Regulations 1 and 2; 1 is the interpretation clause and Regulation 2 updates some of those interpretations and so I hope it is fairly straightforward. Thank you.

The Greffier of the States (in the Chair):

Regulations 1 and 2, are proposed, are they seconded? **[Seconded]** Does any Member wish to speak? Those in favour of adopting Regulations 1 and 2 kindly show, any against. They are adopted. So we will hold over Regulation 3 in case of consequential changes later. Minister, do you wish to propose Regulations 4 to 6 together?

4.3 Deputy I.J. Gorst:

Yes, if I could, please. In effect, Regulations 4 and 5 change the structure of the law to allow rates to go into schedules for both Class 1 and Class 2 at the end which will allow us, in future, not only the Minister but obviously Members as well to make amendments to those schedules without having to dig out the details within the law, so it will be quite clear in schedules at the end of the law and that, of course, will allow us to quite straightforwardly bring effect as well to the long term care contribution level which will go on to show in that schedule. Again, Regulation 6 does the same thing but for the real supplementation. Thank you.

The Greffier of the States (in the Chair):

Regulations 4 to 6 are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak?

4.3.1 Deputy G.P. Southern:

Yes, just a small question really. Having got these in the regulations, therefore, making it easier to adjust matters at some time in the future, could the Minister give some indication about what he intends to do about Class 2 contributions which currently are the self-employed and everybody else?

The Greffier of the States (in the Chair):

Very well, I call on the Minister to reply.

4.3.2 Deputy I.J. Gorst:

Yes, that does not, as the speaker knows, come into what I am proposing and the changes I am putting forward today. However, I do believe, and this is one of the reasons that we have got to where we are, but I am, personally, of the opinion that self-employed individuals under the current ceiling should see some sort of discount. I did not feel it was appropriate for a discount for those self-employed people above the ceiling because they are the better-off self-employed, but I do think that we should be considering a discount for self-employed under the existing ceiling. We would be able to go on and do that and, of course, there is another piece of work which will need to go on to create a class for pensioners so that we can give effect to the charges which would go towards the funding of long-term care. There is probably another piece of work, as well, where we should be considering a class which looks at unearned income in its entirety rather than Class 1 or Class 2 as we currently have it. But they are subsequent pieces of work which the department will be working on in what we have termed Fiscal Strategy 2 but, in effect, it is the continuation of the review of the Social Security Fund.

The Greffier of the States (in the Chair):

All those in favour of adopting Regulations 4 to 6 kindly show. Those against. They are adopted. Now, as indicated, we will hold over Regulation 7 in the face of consequential changes later. Do you wish to propose Regulations 8 to 11 together, Minister?

4.4 Deputy I.J. Gorst:

Yes I do. I will just have to be careful that I do not confuse myself or Members.

[14:30]

Regulation 8 amends Article 10; 8(a) in effect allows the department officers to backdate payments slightly more than we currently do. There is a reference in the current law to 13 weeks and I am proposing to bring it into line with other benefits which would allow it up to 26 weeks, so that should be a betterment to individuals who might have a requirement for backdating of an application. Regulation 8(b) refers to the Health Insurance Fund and the contributions. Again, they have been moved to help tidy-up the law so that it can be dealt with in future. Regulation 9 amends Article 11 which deals with rounding contributions up or down. Regulation 10 amends Article 30;

that deals with the way that money is paid into and out of the fund, in particular with regard to the health insurance allocation percentage. So it is, in effect, stripping them out so that we can see what is attributable to what, no changes to the actual amount. Regulation 11 sets up those 2 new Schedules, 1A and 1B, which we spoke about in Regulations 4 and 5. Thank you.

The Greffier of the States (in the Chair):

Regulations 8 to 11 are proposed, are they seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting those regulations kindly show. Those against. They are adopted. Now, lastly to be held over is Regulation 12 which we will not deal with at this stage so we turn to page 29 and Regulation 13. This is where, after the Minister has proposed, we will come to the first of Deputy Southern's amendments. So, I firstly ask the Minister to propose Regulation 13.

Deputy G.P. Southern:

Before the Minister proposes I have some charts here that I wish distributed. They are just blown-up from the charts I referred to this morning.

The Greffier of the States (in the Chair):

Yes, the usher will do it. Very well, I invite the Minister to propose Regulation 13.

Senator F. du H. Le Gresley:

Sorry to interrupt but have we not just approved Schedule 1A and does not, Deputy Southern's amendment change Schedule 1A, if it was approved in 4 and 5?

The Greffier of the States (in the Chair):

Well, that is for later years, is it not? It has a later commencement; it amends it from a later date.

Senator F. du H. Le Gresley:

Does it?

The Greffier of the States (in the Chair):

Yes, and it is perfectly in order.

4.5 Deputy I.J. Gorst:

Thank you. I will be very short. Regulation 13 is the regulation which introduces the rate in the schedule, perhaps that is why Senator Le Gresley was getting ... so we have created the schedule, now I am asking Members to put the rate into that schedule, Deputy Southern is asking for an extra rate within that schedule. It introduces the additional contribution above the ceiling that is between the between the existing, just over £44,000 and up to £150,000 and it creates that within Schedule 1A and that is for employers. Thank you.

The Greffier of the States (in the Chair):

Is Regulation 13 seconded? **[Seconded]**

4.6 Draft Social Security (Amendment of Law No. 1) (Jersey) Regulations 201-(P.110/2011): amendment (P.110/2011 Amd.)

Now there is, as he said, the first amendment to deal with from Deputy Southern, this is the third of his amendments, amendment part 3 to Regulation 14. I will ask the Greffier to read the amendments.

The Deputy Greffier of the States:

Page 29, Regulation 13, after paragraph (b) insert the following paragraph: "(c) in paragraph 3(1) - (i) the word "and" following clause (a) shall be deleted; (ii) after clause (b) the word "and" and the

following clause shall be added - '(c) 2 per cent of the person's earnings that exceed the standard monthly earnings limit but do not exceed the upper monthly earnings limit'."

The Greffier of the States (in the Chair):

Very well, so I would remind Members at this stage the debate is confined, therefore, to this amendment which deals with the 2 per cent of employee's additional contributions.

4.6.1 Deputy G.P. Southern:

This is the point at which Members will be grateful that I spoke on the principles, largely, to include some the aspects of this amendment.

The Greffier of the States (in the Chair):

So you will not be repeating yourself?

Deputy G.P. Southern:

I hope not, not to any great extent although I may accidentally. This amendment puts back the additional employee contribution of 2 per cent above £44,000 and all the way to £150,000. This was the promise that was made by the Minister for Treasury and Resources that this was the way forward; that was going to happen. This is the promise that has been derailed and abandoned by the Minister for Social Security in consultation with the Minister for Treasury and Resources because they found an extra £14 million, £14 million which may be a one-off, £14 million, which is perhaps going to go towards the £7 million hole that we put in the Education budget - who knows - because things are still evolving. This is £14 million that we do not know is permanent and it amounts to some 2.3 per cent of the overall budget. In the words of the Minister for Treasury and Resources: "This is a higher than expected tax receipt from businesses and personal income tax." The figure is within the prudent forecast range of plus or minus £15 million. It is within the expectation of: "We might be low. We might be high." It is not by any means exceptional. As I keep saying, we do not know if it is going to be there next year or the year after. We do not know what is going to happen. Nonetheless, this has caused the Minister for Social Security to abandon his intention to raise the 2 per cent on employer and employees at this top end. If Members will turn to page 2 of the comments or the graphs that are coming round, as they examine employee contributions, they will see that there is comparison made with Guernsey, but that is below £100,000. It makes very, very little difference whatsoever, the Guernsey line and the local line, with this in. With this in, with 1.5 per cent added on, should we decide to proceed with that later in the day, with the 1.5 per cent means that they are very, very comparable- Guernsey and Jersey - so the argument about: "Oh dear, we must not do this because all these wealthy earners will go, will leave in some way" is not valid. At higher than £150,000, there is a difference and we are marginally just above Guernsey rates. It is a matter of 1 per cent of salary. Now, again, I would argue that is no reason to not proceed with what we are saying. What this is about is fairness and balance. It is the fairness and the balance that we are promised and, in the budget, nothing serious has happened to derail that promise and all of those votes that I mentioned before, which we took on the basis that we are having an increase in G.S.T. It is balanced by an increase for high earners of social security contributions. That was the argument time and time and time again that has persuaded people to not look at alternatives. I do not believe that we have grounds for abandoning that approved and agreed policy on the fiscal strategy and I believe we should go ahead. Members should accept this amendment and restore the original plan, because there is no evidence produced that to do so is not the right thing to do.

The Greffier of the States (in the Chair):

Is the amendment seconded? [Seconded]

4.6.2 Deputy J.A. Martin:

I do want to speak early because I want to give the proposer a chance to answer some questions. I did not speak on the principles because I am quite confused as to where we were. Are we debating

the amendment? I now know exactly where I am and I had some serious questions about this amendment. Now, Deputy Southern sought me out earlier in the day and said: "You will be in the debate [I have been running everywhere; I had a few personal problems this morning to sort out, but I am in the debate] because if anyone knows about fairness I think you are one of the people." Normally, on income support or social security, I would go along, look at everything that has been said, and I would say 10 out of 10 times I have supported the Deputy. I cannot quite get my head around this one. My problem is where he is supposing the higher earner kicks-in. I mean I just do a quick calculation of an earner of £50,000 times what your legal limit is to get a house over in Jersey and it is £250,000 mortgage. Now, is that a high earner? It gives all the reasons that this was a package and, on all the reasons the Deputy gives, I voted the same way as him. I voted against 5 per cent increase. I voted for it to be put off. I supported the exemptions for food and everything else. This is a question and it is not somewhere waiting in the wings; I also listened last time to the Minister for Social Security and questioned him myself and I question him again today. He did not say this will not happen. It will happen, but are we hitting the same people? Now, to me, 44, 55... I know 20 Means 20. When it was first mooted, it was going to kick-in around the £90,000. I know it kicks-in between the £50,000 and £60,000. Are they high earners in Jersey? I mean, at £44,000, I can take you to parts of the U.K. today, you could buy a house cheaper than that for the whole amount of your year's earnings. Then there is the cost of living and everything on top of that on top of that. I do not know the motivation behind Deputy Southern's amendment. Yes, we voted on a package, but the package for the majority of us, we were out-voted. Does this make it right? I cannot see that it does. My question about my Guernsey rate: they have had a long-term care insurance since 2000, 2001, maybe 2002, but ... Does this rate include that? I think it does. So the Minister for Social Security is already telling me their people are putting money away for their old age. I have no problem with that, but we are bringing this in. In fact, I think it is the next on the debate list to, in principle, agree and we have already been told it will be minimum 1.5 per cent for everybody. I do not have a problem. I do not think it is going to be enough for the first 5 years, personally. I am on Health and I see the problems daily, the amounts we are charging, the amounts we have to pay our skilled staff, the amounts we have to pay for basics. We do not pay anyone minimum wage who works in a nursing home over in Jersey. We do not do it because there is so much competition. The Deputy who I have great, great respect for, I cannot understand. He does not even have a different rate up to a certain amount and then starting-in. It is anyone around the £44,000 whacked straight away from 2 to 4 per cent. There is a totally different argument to be had with the employers, the people employing. Would they maybe not employ? I do not know. This is not that amendment. At this point in time, I do not think I can support the Deputy and his arguments, because we supported it as a package before. I lost the package, but this does not make it right. This does not make it right that I can put off for some middle-Jersey people. I know it will affect some people in between £100,000 and £150,000. I do not really have time for those people. My people who I am worried about are the ones earning between £44,000 and £60,000 a year. Unless the Deputy can tell me this is not going to hit them ... and this will be the third hit in one year. We just took away nursery fees for 10 hours a week. I do not get it. Normally, as I say, I always agree with the Deputy. Unless he can come up with some very good summing-up, accept that this was a package that we all voted on, when I did not vote on this package, I voted against all of it and so did the Deputy, 2 wrongs do not make a right to me and this is one of them, sorry.

4.6.3 Senator P.F.C. Ozouf:

I am not going to speak at great length in this particular amendment, because I am going to really confine, I think, my more full remarks to my real concern about the issues of the later debates on employers' contributions, because those are of greater concern to me.

[14:45]

I will say and I do think I need to explain why perhaps I am in the unusual position of effectively accepting that less money will be raised than was previously envisaged in relation to the package of measures that we set out in the Budget last year and why we have accepted at the Treasury that there is effectively going to be with the Minister not proposing the 2 per cent on employees to be effectively deferred. I am very pleased. I will not repeat any of the arguments that he made, but I would just remind Members that, when the Minister proposed the principles of the Act, he did take quite a long time to say that this was a likely deferral of the 2 per cent above the cap, not a cancellation of it. I am absolutely clear with the Minister that that is the case. I fully accept that there is, perhaps, a debate to be had later on about where that money goes in terms of priorities of pensions versus public finances and that is a good tension that exists between the Minister, Social Security and the Treasury about that. I am absolutely clear that this is presented and, in arguing against Deputy Southern's proposals, this is a deferment of the 2 per cent, absolutely not a cancellation of it. Like Deputy Martin, who is concerned about the implications of the 2 per cent of incomes above £43,000, I understand that concern and that is one of the issues, which also on a finely balanced argument - and I accept that it is a finely balanced argument - the public financial position has improved somewhat from that which was set out in the Business Plan and Budget, and in the F.S.R. last year. It gives us some very limited latitude in order to defer in certain measures of F.S.R. in the light of information that we have at the moment. I understand the concern that Members have about the full impact of the package of measures for F.S.R. and all the other aspects of rising inflation, the last stage of 20 Means 20, inflation, the effect that that would have on what is colloquially described as middle-Jersey or middle-income families, *et cetera*. For those reasons and for the collective reasons of the fact that the financial position of the States has slightly improved, for the fact that there are genuine concerns about the effect of incomes in middle-earners combining inflation, low salary increases, 20 Means 20, G.S.T. and all the rest of it, I think that is it on balance the right decision to not progress to 2 per cent on employees at this stage. I am concerned but positive about the economy. We are in a fragile situation continuing. I certainly do not want to rehearse any of the issues that I presented to Members in the presentation on the Business Plan last week. I am confident about the economic recovery and I am confident that things are going to continue to improve. If we have any latitude to give any leeway, then this is the right measure at this stage in terms of a deferral. My message is short and simple: while I support the increase in contributions, I think it is going to be necessary either to permanently put a fill in terms of the overall Fiscal Strategy Review or the perhaps second priority, which the Minister referred to in terms of pensions. Now is not the right time to put the 2 per cent above the cap on employees, but it will be 12 months later. I just say one final thing. We are going to come on to a further debate in relation to long-term care, and I just would remind Members that that long-term care proposition relates only to employees. That is another related factor as to the full burden of the issue in terms of middle-income families, *et cetera*. On balance, I say defer this. Now is not the time to put the 2 per cent above the cap ending at January next year. I urge Members to vote against Deputy Southern's amendments, but to support the long-term planning, the medium and long-term planning that Treasury and Social Security will continue to do in order to balance public finances and deal with pressures, whether they be pensions or otherwise.

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

I would like to thank Senator Ozouf for his speech. He has clarified the situation a bit better for me. As I see the legislation as proposed by the Minister and the amendment of Deputy Southern, the difference in wording I can see is "of a person's earnings" and "of the employee's earnings" and that is the choice we have to make. Perhaps my social security understanding of the legislation is not what it should be. I am a little bit confused, so if the Minister could just stand up and explain to me what the difference between employee's earnings and person's earnings means, just for completeness.

The Greffier of the States:

Are we not misreading it, Deputy? This is adding a whole new clause in as a new rate, which is not amending the Minister is putting forward. It is adding a new rate for employees as opposed to the employer contribution the Minister has put forward.

Deputy J.M. Maçon:

I see, Sir. That would explain why I am confused. Thank you, Sir. That clarifies the matter. Thank you, Sir.

The Greffier in the States (in the Chair):

If anyone wishes to speak upon the amendments, it would be helpful.

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

Yes, please, just briefly. I too, like Deputy Martin, am rather puzzled why Deputy Southern has brought this amendment forward. What I am trying to grapple with is why Deputy Southern would want to bring forward a tax that the Minister for Social Security is saying at the present time we do not need to do. The Minister for Treasury and Resources has said this has just been postponed and it is not being cancelled. I understand that, so I am puzzled. Why would you want to tax middle-Jersey any more than they are being taxed at the current time? The other concern I have, which I did discuss with the Minister for Social Security just a little bit earlier, was that I accept that people who earn more should pay more, but I feel that the cap is too low. My concern is that the single-income households are earning around the £44,000 per year. It is extremely difficult for all the reasons already explained by other Members, whether it is nursery fees, school fees, mortgage, G.S.T. Whatever it is, they are getting hit left, right and centre. If this amendment is defeated this afternoon and the Minister for Social Security goes away to look at it again and consider what he is going to bring back possibly in a year's time, I would ask that he brings it back to look at it, and if he feels that he has to increase, that he does it at different levels so that those people earning maybe under £55,000 per year or something are not getting hit again, and that the people who are earning maybe 6-figure salaries and above take the brunt of it. Thank you.

4.6.6 Senator A. Breckon:

I have been concerned about some of the things I have heard from other Members, because I think what we have done is moved away from the basic principles. What is the Social Security Fund for? Is it for the Minister for Treasury to have a dip at when he wants to reduce the supplementation? About a month or 5 weeks ago, we have just increased the pension age because of alarm bells ringing, and now we are saying we do not need any money to put in there, or Social Security money between them and the Treasury. We had a package of measures that came forward and we were told we must accept this. I had proposals before that to do similar things. It was bit embarrassing for the Minister for Social Security because he had to speak against them, and he has done a bit of kitchen cabinet work here because £6 million came out to go to Health and now we are playing snakes and ladders with the Treasury with doing this and doing that. The Beveridge principles of the Social Security system were a third, a third, a third. The Social Security Fund is set up in such a way that it is not easy to access. I know there are proposals to change that, and I know that is some concern that the Deputy of St. John had as well, because it is not the Minister for Treasury and Resource's or the Minister for Health's role to get in there and say: "Well, we want some of this." It needs wider involvement and perhaps consultation to do that. The other thing that has not been mentioned is prescription charges. There were measures: "We do not need this." That disappeared with no consultation at all. I heard the Minister for Treasury and Resources just say: "People are feeling the pinch" 20 Means 20 and whatever. Only not that many weeks ago, we were told: "We have to put G.S.T. up. We need this £8 million." Now we do not. Why were we not told during the G.S.T. debate: "Oh, actually we do not need the money that is going to be raised; we can exempt food"? We were not told that then, so I am very concerned that a small number of people here are playing snakes and ladders with various funds and using them for purposes that

were not intended. The House approved it, and this should have come back. We talk about rescinding decisions. This is, in effect, rescinding a decision by another way, because we have agreed it and, procedurally, the Minister has the right to do this, but it really worries me that a small number of people here are having fun and games. It is a serious thing, because - he is not here - as the former Social Security President will know, Senator Le Sueur, when he went out to the public generally, the continuum changed. People said: "We value our social security pension." For many people, it is the only pension they have got: "We are willing to pay a bit more into it." If you look at some of the figures, I think, that are in Deputy Southern's report, it shows that increase of half a per cent over a 5-year period. It went from 10 to 12.5 per cent. If we had been honest with people and said: "We have to do that again because we have a package of measures that affects pensions and elderly care ..." What we are doing here really worries me because it is fragmented and Social Security should have been brave enough to bundle the things together and say: "This is what we need to do and we need to do it over a 5-year period; these are the consequences if we do not, but these are the benefits if we do." I will support Deputy Southern's amendments here because he puts us back, I think, where we were if we perhaps listened to the amendments I put forward in the first place, but the Minister for Treasury and Resources and the Minister for Social Security had another agenda, and they are using and abusing, I think, the Social Security system for purposes it was never intended. That really does worry me and hopefully somebody soon will be challenged over this.

4.6.7 Deputy M.R. Higgins of St. Helier:

Again, just following on from Senator Breckon, I must admit I also have concern about what is going on here. I do not think I was such a cynic before I came into this Assembly, but in the 2½ years I have been in the Assembly I have become so cynical of what is coming forward. In fact, almost everything we get from the Council of Ministers involves smoke and mirrors. Nothing is ever what it seems. I am concerned. It is like listening to Senator Ozouf a few moments ago. He said that he had concerns for middle-earners. Well, he did not have the same concern when he was putting forward the Budget and suggesting the 2 per cent at the time. He also says that, at that time, we had to take hard choices. One minute it is hard choices. The next minute, we have to ease off. He also said a few moments ago: "The economy is fragile. People's incomes are being reduced." Yet, he is confident about the economic recovery. Depending on which press statement he puts out everything is rosy. The next minute, it is fragile. We have to put up these particular charges, because there is a need for it. No, we do not have to do it at the moment; we have found an extra £10 million, but again that £10 million is not guaranteed for the future. He also, as I say, has mentioned that he expects to be coming back and seeking this probably in 12 months' time. Obviously, we know that we have to fund long-term care and we are going to have to put these sort of charges in. I am just extremely suspicious of what is going on between the Minister for Treasury and Resources and the Minister for Social Security. My inclination is to support Deputy Southern on this and let us go with what we agreed as part of the original package, because I do believe it was dishonest what we were sold. Do you think dishonest in terms of the package that States Members agreed to in terms of progressive measures as well as the regressive measures in the G.S.T., which I did not support? I just feel the States have been sold a pup.

4.6.8 Senator F. du H. Le Gresley:

I am confused, because I am trying to cast my mind back to the Business Plan debate and I seem to recall that the uplifting of these social security contributions above the ceiling was a proposal that would come into force in January 2012 and, therefore, could not be debated as part of the Business Plan for 2011. Similarly, when we did the Budget, they could not be debated, because they were not relevant to the 2011 Budget.

[15:00]

In essence, we have had a proposal mentioned in a Business Plan, but not something that the States could debate, because it is in a different time sequence. Today, if I am right - and the Minister for Treasury and Resources has nodded his head a few times - this is the first time we are debating raising social security contributions for anybody, whether it is employers, self-employed, employees or whatever. This is our first debate on this matter. What has changed is that the financial position has improved - we know that now - some £40 million. However, we have had, as Senator Breckon has pointed out and Deputy Southern has pointed out, a recent debate about G.S.T. At no time did the Minister for Treasury and Resources suggest that the outlook for the financial position was improving and we could have had a 4.5 per cent G.S.T. rate, which would have saved about the same amount of money. There was an opportunity to pass on an improved financial position to everybody who pays G.S.T., which is the whole population. We are now focusing on people who have an income above £44,000 as saying how terrible that this extra 2 per cent would be for this group. Yet, we missed a golden opportunity to give something back to the whole population. Everything is coming in the wrong time zones unfortunately. I sympathise with those who say this is a group - middle-Jersey - who are suffering. We understand that, but can we believe when we are told that this is only a postponement, that it will probably happen in 12 months' time? We cannot always believe what we are being told, unfortunately, as I see it in this Chamber. I have serious doubts whether this proposal will ever come back other than as the Minister for Social Security would like as a means of increasing money going into the pension pot, which is a different proposal completely from reducing tax supplementation and therefore a form of taxation. I am confused and I think the Fiscal Policy Panel is also confused, because I listened very carefully to what they said the other day. Unfortunately, I thought I had brought their report with me, but I have not. They made the point that, if the Minister for Treasury and Resources puts out a proposal for increasing taxation and we move all our finances to accommodate that, then it is not a good policy to start backtracking on what you already agreed. This is some £9 million of income that we have suddenly decided we are not going to collect. That is a significant sum of money. The Fiscal Policy Panel is not impressed. They are also not impressed, by the way, with the £6 million that the Minister for Social Security is going to give again in 2012. That is my interpretation of the Business Plan. There is a second tranche to be taken.

Deputy I.J. Gorst:

If the Senator would like to give way, my reading - and I think it is quite clear what the Fiscal Policy Panel was saying about the transfer from the Health Insurance Fund - was that they would have preferred to have seen it reported in a different way almost above the line rather than netted-off as expenditure. Not that we have done it, but it is just how it was reported.

Senator F. du H. Le Gresley:

Am I to understand there is only one lot of £6 million?

Deputy I.J. Gorst:

As Members know, it was a piece of legislation for 2 years, 2011 and 2012. The Business Plan proposes £6 million for 2012 as well. However, as the Senator probably knows, it is not quite back from Privy Council yet.

Senator F. du H. Le Gresley:

I do not think I was wrong in what I was saying there. I was saying that the new Business Plan proposes that another £6 million is moved from the Health Insurance Fund and we have already agreed to move, subject to Privy Council approval, another £6 million last year, so it is £12 million, thank you. What I am trying to say is: do we follow the advice of people who professionally advise us and stick to what we agree or do we just chop and change whenever it suits us? I am confused. I would love to think I am going to support Deputy Southern, but I would need him to really convince me when he sums up.

4.6.9 Deputy I.J. Gorst:

I do recognise that this is a difficult decision, as it was a difficult decision for the Fiscal Strategy Steering Group, about whether to continue with this or in light of the other changes that have happened and the other proposals which I am bringing forward and, going back to the contract that we have with our community around the pension, whether this was appropriate or not. On balance, we decided that what I have proposed today was the appropriate way forward. I welcome what Senator Breckon said. He, in his speech, seemed to be saying that we should be very careful and very cautious about using contributions gathered through the social security system for anything other than the Social Security Fund. If Members recall, one of the reasons why I touched on this in depth in my speech about the principles, in light of the improved financial outlook, having cautiously agreed to it, I then was of the opinion that we should not do it at this time. It is a deferment but, as the Minister for Treasury and Resources has said and as I have said quite clearly, and it ties-in with Senator Le Gresley, I am of the opinion that when it comes forward - and it will come forward because we plan for the medium and long-term in Social Security - the question the Assembly will need to address is: does it go into central Treasury coffers, thereby reducing supplementation, which Deputy Southern is very concerned about, or does it remain within the pension pot to deal with the ageing demographic? I think I have made it clear where my opinion lies on that decision, but it will be a decision for the Assembly and Members will make their decision. If Members decide to vote for Deputy Southern's amendment, then what will happen is that that will go into central coffers and it will be used to reduce supplementation, the thing that Deputy Southern wishes to do. He was quite clear in his opening remarks that that is what he wished to do. Therefore, I would perhaps say, with respect to Senator Breckon, that he and I are not a million miles apart and I would counsel him to defer this decision and have that debate. As I say, it is a finely balanced decision. What did the F.P.P. say? They praised Jersey for the way it had managed its finances and the way it is managing its finances, and it said we needed to carry on with that cautious approach. It also, quite tellingly, said that we were facing issues around the ageing demographic that we would need to factor into our projections and deal with in the medium term. If I just touch on the Health Insurance Fund; the Assembly has approved a transfer for this year of £6 million. It will need to approve a transfer for next year. The Assembly has not yet approved that. It has approved a law to allow the Minister to come forward with an amount to be transferred. These have been difficult economic times and we have had to consider options to ensure that our community is protected and that we act in the best interests of the community and I stand behind that decision to transfer the money to the Health Insurance Fund for all the reasons that I said in my opening comments. The only other thing perhaps I would say at this point is I wonder if Deputy Southern could give an understanding to the Assembly that if his amendment or the other 2 amendments were to be approved by the Assembly, what he would be expecting the Assembly to do with that money. Is he expecting to reduce supplementation and, therefore, spend it some other way? I do not think he has said, in any of his comments so far, what he would do with that extra money, because the F.P.P. quite clearly would expect us to put it into the Stabilisation Fund. I wonder if he might confirm that is what he would do with those monies should it be approved today. But, as I say, on balance I believe that, as difficult as it is, the package that I have brought forward, with the support of the Council of Ministers and with the support of the Steering Group, is the appropriate one and I ask that Members, in light of that, do reject this amendment.

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

I am not going to go over ground that has already been covered but bring it back to how it might affect the individual. Building on what Deputy Martin said - and Deputy Hilton - if you have got a middle-earner, £44,000 ... and, moving forward, assuming that we are going to accept the long-term care strategies, which will add another 1.5 per cent of people's income, in round figures if we accept this extra 2 per cent to the employee, that means that someone on £44,000 a year will have to fork out this year, or whenever it happens, £1,500 a year. [Aside] Yes, it will.

Deputy G.P. Southern:

If the Member will give way, the 2 per cent applies to earnings between £44,000 and £150,000. It does not affect any earnings below that. That is where the confusion is.

Deputy A.K.F. Green:

Okay, I accept that. I did my calculation wrong, but I still come back to the point that you are hitting the very people that we could help at the moment at a time when we can help them. It may well be in a year's time we have to come and put this 2 per cent on, but we are going to add 1.5 per cent, I suspect, for the long-term care strategy anyway. Do we really want to keep hitting the same people time and time again when we can avoid it?

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

I am finding myself in an extremely difficult position because I was on Corporate Services when the Business Plan was debated last year and I made it quite clear that I was more for making savings before increasing taxation and, technically, this is a taxation and I was not particularly in agreement with the Minister for Treasury and Resources at the time as I was. However, reading the Fiscal Policy Panel report, I think there is a very important area which we should all take into consideration before we vote on this particular amendment and that was 2.4 where it talks about the Comprehensive Spending Review. I will read it out to Members so they can determine how they believe they should vote for this amendment. In the Comprehensive Spending Review the F.P.P. state: "In previous reports the panel has noted that the fiscal consolidation proposed by the States of Jersey relies on some ambitious C.S.R. (Comprehensive Spending Review) targets to reduce expenditure. Having had discussions with officials concerning the progress of the C.S.R., the panel is reasonably confident that the £65 million savings should be achievable although there would appear to be a lot of work still to be done to finalise the details. The main risk to not achieving the desired level of savings is that the suitable area for savings will not be agreed, whether by the Council of Ministers, the States Assembly or the public. One prominent example of outstanding disagreement is the ongoing debate on education savings and school grants, in particular. Significant issues like this need to be debated fully. However, it is also important to note that to reduce spending difficult decisions have to be taken. Furthermore, effectively ring-fencing large areas of expenditure means that larger savings will have to be made in other unprotected areas if overall savings targets are to be achieved." I believe this is the important area: "As a temporary measure the Business Plan proposes to fund the shortfall resulting from these decisions in other ways. For 2012, it has been proposed that growth provisions previously allocated to the Education Department be used to offset the shortfall from lower C.S.R. savings. For 2013 and 2014 [of which I will remind Members we do not determine that budget] it has been provisionally proposed as a fallback position to use a significant proportion of the original £10 million set aside for C.S.R. restructuring. These proposals reduce the States room for manoeuvre should additional needs arise with a risk that the fiscal position could deteriorate. It is not the role of the panel to comment on how the savings are achieved since these are ultimately political rather than economic decisions. However, it is worth noting that if savings cannot ultimately be delivered then any shortfall may have to be made up through tax increases if there remains a structural deficit over the medium term."

[15:15]

That is where, for me, it is very difficult because we requested the Minister to go out and make sustainable savings; "sustainable" meaning that we are able to keep those savings in the long-term. We have principles that we all agree as an Assembly as to the way that restructuring provisions are used, contingency funds are used as we debated yesterday with the public finances amendment. I have to ask the Assembly: I know it is a very difficult position that we are in, but is it responsible of us to know that there will be a potential or there could be a potential hole in 2013 for the Council of

Ministers - the newly elected Council of Ministers - to decide upon, within a very short period of their term of office, for 2013? That is the difficulty I am grappling with at this precise moment. We are in extremely uncertain times and it was something that the Minister for Treasury and Resources did state in his Budget statement and did sit in front of the Corporate Services Panel and state that it was a necessary measure. So I just ask Members to keep that in mind when they decide to vote on this amendment.

4.6.12 Deputy P.V.F. Le Claire:

It is a difficult thing, is it not? We have got a situation where the funds are being managed in such a way that it is identified that we have arrived at a position where we have got this money, which is perfectly within the envelope that Deputy Southern says we had anticipated; that margin of error. So that means we are getting our numbers right; it is evidence that the people that are doing the work are getting their sums right. Again, we are faced, though, with the situation where we are being asked to focus on the negative aspect of what we could be doing instead of the positive. As thoughts become things, the more we focus on “want” the more “want” we will have. Now, if we focus on addressing the issues and solving the problems then we will get to that position instead. The longer we spend addressing the fact that we have not got enough, the more time we will spend on not having enough and we will bring that to us ourselves as a consequence. Thoughts manifest things. This is, again, unfortunately, another debate where we are seeing arguments in this Assembly. Well, we do not have time for this really. Long protracted debates around these issues trying to extrapolate issues which are issues of taxation. Again, with the greatest of respect - and the Minister does agree with me or at least he has agreed with me - this whole Ministry needs to go. Not the Minister. I think the Minister should stay. I think he is a good Minister. I think he is a good politician. I certainly believe that. Somebody suggested making him Minister for Treasury and Resources. Now, there is an idea. Well, if we renamed his department the Treasury Department and scrapped his current department then that would, in effect, bring about the same thing, would it not? Then the Treasury Department would be handling taxation issues and it would be handling issues about supplementation and public pensions and the other aspects of his department, which are currently giving money away to Health, can be hived-off to the Health Department along with the budgets. The Health Department can have the healthy position of having enough money to pay for the nurses they need and all of the homes because they cannot pay the minimum wages due to the changing demographics. We all have to have cognisance of the fact that predictions are the demographics of ageing. We have got less home ownership in Jersey than anywhere else in the world. Therefore, as we continue to have less home ownership, we are putting aside less money for our pensions. Therefore, when people get to be the ages that we are now, in the future they will not have homes to cash-in as part of their equity. That will not exist. They will have spent all that money on holidays instead of houses, because that is what they are going to do. If they can afford holidays that is what they will do and if they cannot afford holidays maybe they will just afford the other little things in between. But they certainly cannot afford houses. My point is that if Members want to continue to listen to irrelevant speeches and irrelevant debates then continue to have issues brought forward by a Minister in a Ministry that should not exist. This whole Ministry should be gone. These issues are taxation issues. I do not think, with 2 per cent increases in G.S.T. this year, we can seriously say to the people of Jersey: “We are going to add more on to your burden and, on top of that, in order to make it fair we are going to add more on again.” It is the same argument that was used in Education and if you look at the C.S.R. proposals in the Business Plan ... there I was a couple of days ago saying, for example, that the nursery fees were a slap in the face to the parents and it was being argued against me by the Minister for Education, Sport and Culture that it was ...

The Greffier of the States (in the Chair):

Please try and keep to the amendment, Deputy. We are not discussing nursery fees.

Deputy P.V.F. Le Claire:

Well, Sir, I am talking about the nonsense that we are in and I think this is relevant. £272,000 is going to be raised by that equity: “Let us make everything fairer.” What we are doing is we are taking more money off the ordinary people in the street. I am sorry to say, where before I have been able to support Deputy Southern, I, like other people, am struggling now. These things need to be thought of in the round. The positions have changed. The positions are moving and we need to be getting our time and our attention focused on solving some of the bigger issues rather than chasing some of the lost battles that have already occurred. The need for people to pay more than they earn more, in my view, is fair and if we do not want to be embroiled in whether or not £6 million this year and £6 million next year is £12 million and all these irrelevant nonsenses that we have been listening to then I suggest we carry on. We can all give it credibility if we want to. It is an absolute nonsense.

4.6.13 Senator S.C. Ferguson:

As Members will remember, we did comment on the Budget last year and we said in fact: “So far and no further.” In other words, the taxes and savings that were brought up in December, that was it; no more changes. Now, as I understand it, and perhaps Deputy Southern will put me right if I am wrong, his amendment restores that which was to be delayed. **[Aside]** No, the recent statement that the 2 per cent, the extra on the employees ... what he is doing is merely restoring that which was decided on by this Assembly last December or thereabouts. **[Aside]** It was debated, come on.

The Greffier of the States (in the Chair):

No, it was not. I think, just to clarify from the Chair, it was not debated. It was referred to as a 2012 item. Senator Le Gresley is correct. It has never been debated before today.

Senator S.C. Ferguson:

Thank you, Sir. I have been falling into too many of Deputy Hill’s potholes. But the whole point is that we have now a big hole outstanding since the Education grant savings have been scuppered and we cannot afford to change anything else. Therefore, subject to a little elucidation from Deputy Southern, I may well be voting with him.

4.6.14 The Deputy of St. Mary:

I have a number of quick points. The first is the timing which has not been referred to for quite a while in this debate. We need the money. We do not need the money. There is an election coming, so we do not need the money; so we can give some of it back. That does contrast with what the chairman of Corporate Services has just said, which is that a year ago or half a year ago we implicitly endorsed an employee’s contribution as well as an employer’s contribution and now suddenly we are going back on that. So just remember this strange issue of the timing of this. I am taking, in a sense, the points in backwards order of importance, if you like. The second point is competitiveness. Now, this has not been majorly referred to as an argument against what Deputy Southern is proposing but I think it might be in the back of people’s minds: “Oh, well, if we increase the employee’s contribution right up to the ceiling of £150,000 that might affect our competitiveness.” Indeed the report of the Minister says: “Competitiveness depends upon how attractive a jurisdiction is to do business in and with. All the costs of doing business, including wage levels, taxation and productivity, are factors, as well as less tangible factors such as economic stability.” I note from that that the Minister, I am afraid - although I had not really suspected him of this - is party to the group-think within the Council of Ministers. You know, those are not the only factors that are favourable to business and which keep people here. The implication of that paragraph is that the whole world boils down to money. It is all about wage rates and tax rates and social security rates and economic stability. But there is something beyond that which holds people to Jersey, and you ask new entrepreneurs who come in and so on just how wonderful living here is. I have seen interviews in the paper about people who come to work here in the finance industry.

They say: "I cannot believe it, I can get to work in 10 minutes. I can get to work in 15 minutes. After work I am on the beach in half an hour" and so on and so on. So there is quality of life issue and a quality also of Government services, including whether the roads and the cycle ways and the pavements have potholes in or not and are safe. That brings me on to the point about there is an assumption built into what the Minister is saying; that spending cuts are essential; that we can go to the way of not bothering with this £6 million. It is alright because we can, one way or another, find some cuts. But in fact this is pure smoke and mirrors, pure smoke and mirrors. Long-term care: we have heard that mentioned several times; 1.5 per cent across the board on Social Security. We could have started raising that many years ago but we did not, so it is coming now. We still have to find £200 million for our sewerage network. The usual list: maintenance of properties: way, way behind, not just in housing. So we are going to have to raise the money somehow and I am not excluding the possibility of real savings. Of course, we can reconfigure services and deliver them more efficiently. I have no doubt that in certain areas we can achieve real savings, but that still will not obviate the need for raising money. I would like to refer Members to something which has kindly been pointed out to me in the Fiscal Policy Panel's annual report, July 2011, just presented to us, page 22: "Further decisions that reduce revenues or increase expenditure in the medium term without offsetting savings or revenue should be avoided." Further decisions that reduce revenues should be avoided and that is exactly what the Minister is proposing. A bit further down the same page: "The risks around achieving the necessary fiscal consolidation proposed in Budget 2011 appear to have increased. In particular, the proposal to defer part of the increase in social security contributions," which is what we are talking about now: "at a cost of £9 million a year is of concern." Now, the Fiscal Policy Panel is a well-respected group of people and the Minister for Treasury and Resources often sings their praises and their advice is not to defer this revenue-raising measure but to go ahead with it. My next point is that what we are faced with in terms of raising revenue is how to do it. We cannot avoid the issue of whether we are going to do it. We need to raise the revenue. What I think the Deputy is trying to do is he is asking us whether we swap a progressive way of raising revenue for a non-progressive one, and people have referred to raising of the pension age and G.S.T. in this context. So it is a matter of: "Which measure do we prefer?" It is not just: "Oh, well, we do not need to do this now. We have found some money."

[15:30]

The question is really the fundamental one of fairness and I think that is what this is really about. I would remind Members of what the Executive Summary to the Fiscal Strategy Review said, and it is Deputy Southern's amendment report, about the changes. One is the 2 per cent social security contributions and the other is raising G.S.T. with compensation for those on low incomes. These 2 changes achieve the twin aims of delivering a package which is fair; where those on higher incomes pay more in cash terms and as a proportion of their income. That is partly what Deputy Southern is trying to achieve and that is what the Executive Summary of the Fiscal Strategy Review told us. The question is whether we are going to renege on that and go back to raising money in ways that are less fair than we set out to do just a short while ago. My final point is a challenge to Deputy Southern. On page 16 of the Minister's report there are charts of the effective percentage rate paid by employees in 2013 if we go ahead with the 1.5 per cent, which we are quite likely to do, in the next debate; the 1.5 per cent for elderly care with £150,000 cap. What I see there is that the current effective percentage rate paid by employees in social security and the proposed rate both go down with income. In other words, they are effectively regressive. So even if we vote for Deputy Southern's additional 2 per cent, we are faced with a measure that is less regressive than other measures. I would like him to comment on that because I did have a hope that this was a progressive way of raising income, but it appears to me now that it is only less regressive than the alternatives of G.S.T. and raising the pension age. So I would like him to comment on that. But, on the whole, the issue around this is the fairness of doing this as opposed to alternatives and we cannot avoid the issue of raising revenue to deal with our necessary expenses.

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

Deputy Vallois quoted some very wise words from the F.P.P. However, it is the interpretation of those words where she and I and others may differ. If this amendment ring-fenced the additional funds raised by placing them, say, into the Stabilisation Reserve I would have more sympathy for it, but it does not. I simply fear that if we gather this additional money that we do not need from Islanders we will simply spend it or it will be a temptation for some Ministers, maybe, and officers not to meet their savings. We do not need the funds now and by “now” I mean in 2012. We may need it in the future in that we are in an uncertain world, but we do not raise taxes on the basis of shifting sands. If we do need these funds in the future, in 2013 and beyond, then that is the time to raise them. We do not need to do it now.

4.6.16 Deputy M. Tadier:

I am glad to follow the last speaker. This whole debate raises some very serious issues and they are diverse. The first one is back to the old question about who ultimately makes the decisions in this States Chamber. Is it States Members or is it Ministers, essentially? Of course, it is ultimately the States who always make every decision that comes to the Assembly. But are we here just to rubberstamp something and reverse decisions that we have already made? I think this debate goes to the heart of that. Let us imagine if the boot were on the other foot, where the States Assembly has agreed a whole package. Remember, we are always sold packages; so when we are sold G.S.T. we are told: “Do not just look at the G.S.T. Look around the G.S.T. Do not look into the G.S.T. Look into the G.S.T. You will find it is very progressive. It is a progressive package.” [Aside] Exactly, that is the reference, Deputy Pitman. We were sold it as a package. Now it seems that a Minister can just turn around, after having discussions perhaps with another Minister or Ministerial colleagues and say: “We do not need this part,” or: “We do not need it now [as somebody has said] in an election year.” I do not think that has got anything to do with it, but it is an election year. But I do not think that has got anything to do with it. If Deputy Southern came and said: “I want to take this bit out. I think that we need a reprieve for the middle-earners” - I will come back to this idea of middle-earners by the way - I think we would have given Deputy Southern short shrift, quite rightly, because we had made a decision. We all voted for a package by majority.

The Greffier of the States (in the Chair):

I am not sure if you were out of the Assembly, Deputy, but it has been clarified the States have not voted on this matter before.

Deputy M. Tadier:

No, Sir, but I think the idea is that we were sold this as a package by Ministers.

The Greffier of the States (in the Chair):

Not debated, Deputy. It has never been debated.

Deputy M. Tadier:

Okay, I take that point, but I think the point remains valid. We were sold this idea as a package. [Aside] We were, and if the Senator wants to speak he can do so afterwards. I think, in order to be consistent here, we have to pursue what is being pursued and stay focused on the argument and be consistent. Now, this whole idea of middle-earners, somehow, Deputy Green mentioned it, that we have to protect middle-earners. Now, since when is the average wage in Jersey between £44,232 and £150,000? That is not the average wage. The average wage is way down, it is probably around the £30,000 mark, and that is the average, not the median wage either, so we have to be realistic here. If we even take the midpoint of those figures, somewhere around £90,000, that is certainly not £97,000. Those are not middle-earners; those are people who could afford to pay social security. Now, as the Deputy of St. Mary said, I have issues, in general, to do with social security contributions in the sense that that they are, essentially, a payroll tax. They are not progressive, they are slightly less regressive than the other alternatives that we have been given, but that is the

fact. But the other fact remains is that the electorate has voted for a majority of States Members who perpetuate a system which is unwilling or possibly unable to tax capital. Now, I say the electorate has voted for that majority. In reality, the electorate have voted and they have ended up getting this majority of States Members who perpetuate a system, which is unwilling or possibly unable to tax capital and those with capital in a meaningful way; that is the reality of it. We live in a centre which makes its money by helping others to minimise or avoid paying their tax liabilities in other countries. Therefore, when we want to tax our own wealthy individuals, even if we wanted to do that, we have problems doing that. We have problems on an ideological level doing that, we have problems on a physical level being able to do that as well. So this is why we have this conundrum about finding slightly less regressive, but regressive measures, in order to raise capital. Now, the other argument is why do this now? We do not need to do this now because we found money. We have the extraordinary statement from the Assistant Minister for Treasury and Resources saying: "We do not need this money and if we get this money we will just spend it." Well, will we spend it? I am sure you can save money; that is another alternative. There is another expression which says to make hay while the sun shines. Although the sun might not be shining for many Islanders, I think that the rainy weather, in reality, is yet to come. I would read from the Jersey Fiscal Policy Panel's report, which has a panoply of wise words in it. It says: "Risks remain about future corporate tax revenues and if they materialise it may require further adjustment to personal taxes to continue to generate a sustainable stream of revenues to pay for public services. Jersey is likely to face difficult choices especially at a time when personal disposable incomes are already squeezed by slow growth in average earnings and higher inflation." We look at the trends in taxation; we know that in the last decade the shift has been away from corporate taxes to personal income taxes and to indirect taxation. We know that this trend is likely to continue. We know that the economic outlook is not necessarily rosy. I think we have not seen the worst of the recession, we know it does take a while to hit to Jersey. It is best to get this money in at a time when people are more likely to be able to afford it, save that money and use it. This whole idea that, somehow, by taking the money we are going to burn it because that is apparently what States Members do, that is apparently how the Minister for Treasury and Resources and the Assistant Minister for Treasury and Resources deal with their money. If they are given extra money: "I will not know what to do with it", so it is best not to have it in the first place is a complete nonsense. I think this is not an ideal situation to be presented with but I think we do have to accept the amendment as put forward by Deputy Southern, and I would ask Members to do what is the right thing rather than necessarily being attracted by the, I think, convincing but ultimately wrong arguments made by the Minister for Social Security.

4.6.17 Deputy T.M. Pitman:

Sorry I was a bit hypnotised having been looking into Deputy Tadier's eyes, he is a bit slow. There have been some good points. I do not know if they have helped me a lot but I certainly feel like Senator Le Gresley, a bit confused. I mean I do not want to hurt middle-earners, we are hearing a lot about them, especially given the way we treat our very wealthiest, with kid gloves. If I am confused, and I have to ask myself where that confusion began, and the fact is the confusion begins - it cannot be disputed - with what comes out of the Council of Ministers, in this case from the Minister for Social Security and probably the Minister for Treasury and Resources. It is a bit ironic that this should revolve around Social Security because, as many of my colleagues know, and many of my constituents know, to their cost, Social Security is a department where you get told different things by different people on different days of the week, depending on what colour shirt you are wearing, probably, and that seems to be the problem here. Still, in my confusion I suppose I have to resort to who I trust the most in guiding which way I will vote and I trust Deputy Southern. I have my differences with him but after all, essentially, what he is trying to do is return us to where the Minister had originally declared that we all had to be, at least that is how I understood it. Should I trust the Council of Ministers? Well, what is the difference between doing this now and in 12 months? The only difference I can see is, indeed, an election. To any Members

who would say: "Well, I am a bit a cynical", I probably am a bit cynical, but then just look back and consider a couple of stunts - I can only call them that - that have helped Ministers get re-elected in the past: free prescriptions, even to millionaires; and then we have the issue of nursery fees, not so long ago, both, similarly, very coincidentally right before an election. I do find this situation leaves me torn but I think I am going to have to wait and see what else is said, particularly from the 2 main players. It does however seem to me that the big problem is we are having many of these debates entirely the wrong way around and I think we should have sorted out the matter of taxation first. But there we go, that is my opinion and we will discuss that, probably about Saturday, I imagine.

4.6.18 Senator T.A. Le Sueur:

I think the basic question around this matter is that of when, not if. When should this change be brought into effect? What the Minister for Social Security is saying, I think quite rightly, is that it would be sensible to delay this for a year, and why? I would say immediately not because of inactions but because of various other factors. The first factor, I think the most important, is the long-term care which we have been trying to bring in for several years now and which is going to impact on every earner, rich, middle and poor. I am not going to define what middle-income and middle-Jersey is, other people have tried that and failed but I am just suggesting that £44,000 is a bit above that. In most people's books, even if not mathematically, the middle, it is something like middle-Jersey. What we are doing is delaying this for a year at a time when the background suggests that this is the right thing to do. It is the right thing to do because people are already suffering, or going to suffer, the increase in terms of long-term care. They have already suffered, or are just beginning to suffer, an extra 2 per cent increase in G.S.T.; so 2 hits already in one year.

The Deputy Bailiff:

One moment, please, Minister. We are quorate. Yes, please continue.

Senator T.A. Le Sueur:

So we are hitting these people with 2 things in one year, do we really want to do it for a third? We have to accept the fact, as the Deputy of St. Mary said, that timing is important.

[15:45]

The timing at the moment, as I see the outlook, economically and globally, is one of a very uncertain global financial picture. Nearer to home we still have a fragile employment market and we are, I think, putting these at risk by trying to do too much in one go. That reference has been made to the Fiscal Policy Panel and this was brought up, quite clearly, at last week's presentation where they would certainly be against not bringing this in at all, but they understood and accepted it was a political decision that we could delay it for a year and that was very much a political decision. That is really the decision which we have to take today. Do we overburden the taxpayer at this time or do we delay for a year at a time when we can manage to do that and, I think, achieve by that, perhaps, an improved economic outlook for all Islanders which will make the pain of this further burden less painful when it does arise. So, this amendment should be rejected.

The Deputy Bailiff:

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

4.6.19 Deputy G.P. Southern:

Before I say anything I would like to put my microphone on - it always helps - and to thank all those who have taken part in this debate up to and including the first contributor, Deputy Martin, and that is the last time I make sure that she speaks. But she seemed to have some concerns about defining fairness and defining who were middle-earners and who was to pay this extra 2 per cent. In order to answer her I will point out, very clearly, that what we are talking about is that 70 per

cent of earners in Jersey, of employees in Jersey, earn less than £44,232. So we are talking, the split is 70 below this figure and 30 per cent above this figure. Then, just to make sure in case anybody did not catch the clarification of what Deputy Green was saying, this 2 per cent does not add on to any penny earned below £44,232, 2 per cent only applies to earnings above £44,232. It is 2 per cent on that. At present somebody earning £44,232 pays 6 per cent contributions to pension, to the Social Security Fund, on every pound that they earn bar a small exemption at the bottom end. That amounts to something like £2,600 per year, that is what we contribute, 6 per cent on every pound we earn, more or less. Earning over that, how much do you pay extra, not one penny. Now, if we are talking fairness, what are we talking about? We are talking about over £44,000 you pay not one penny extra. So for somebody earning £100,000, on average, they are paying something like 2½ per cent, 3 per cent on their earnings, is that fair? No, it is completely regressive. The more you earn the less proportionally you pay. So the figures are that this 2 per cent will add on for the £100,000 a year earner £1,200, at £100,000. Now, Deputy Martin said: "She did not care about them, they should be paying more", and quite right too. For the person earning £50,000, half that wage, they will pay how much extra? Not half the amount extra, but £120 a year extra. A relatively small amount, you can see this least regressive element that this puts back into the system. The figure for somebody on £60,000 would be about £300. So, proportionately, as it were, it does rise as you go higher and is fair because we are talking about this division that comes between 70 per cent of workers and 30 per cent of workers. So in terms of fairness, it is, to a certain extent, as the Deputy of St. Mary says; the least unfair change we might be making but in terms of fairness and balance. It certainly preserves that element that we were preached to during the Budget debate about fairness and how tough and difficult it was, but fairness contained these 2 elements, rising G.S.T., regressive, clearly, and extra social security payments, 2 per cent, for higher earners and they are higher earners, that is the way forward, that is the balance. That is certainly the package not voted on but sold to us at the time of the Budget debate. Referring, just briefly, to Deputy Higgins, I think he was talking about ... and we hear this time and time again about the hard choices and the tough decisions that Ministers have to make in dealing with our fiscal situation. I asked the question and I pose the question merely: what is the hardest thing to do in an election year? What are the tough choice and the hard decision that need to be made? Is it offering to chop your public services and have some anonymous faces laid out of work, to reduce services here or there or to deliver service somewhere differently and save some money or is it to face up to the reality that, yes, sooner or later ... and how many people have said that? Sooner or later, it is not very much later. For 2013, this measure will probably be on the menu, it will be back on the menu. Sooner or later we have to face those hard decisions. In order to accommodate for our new economic and fiscal position we are going to have to put up taxes. Now, what is the most difficult thing to say in an election year? There is an election 3 months away: "I am going to put up your taxes"? But that is the reality, and to duck from that and say it is going to make some significant difference between 2012 and 2013 is absolute nonsense. The only difference between 2011, 2012 and 2013 is we have to make a decision today to do it or put it off for, perhaps, a year, that is the other side of the election. Now, I point that out only to say: "What is the hard decision to make?" If we are talking about tough choices and hard decisions, let us get on with those hard decisions and do what is right. Now, Deputy Gorst uses this argument that what we should not be doing is putting up contributions for anything else than going into the pension pot. It is a very tempting and attractive argument that that is what we should be doing because we know that the bombshell of the ageing demographic is going to hit us, and no doubt we will see increasing contributions coming further down the line. But what he is proposing is, and he has said it time and time again, this is only a delay and come 2013, come the end of 2012, he is going to be offering to make this move, 2 per cent and 1.5 per cent to go into the pot in 2013, all at the same time and some way down the line so that you do not get notice at all. Is that what he is doing? He is already using contributions not to go into the pot, it is 2 per cent on employers, it is going to go to pay off supplementation, to subsidise supplementation, to reduce the supplementation that we pay currently. That is the reality. So he is already making a small move on that. I want to make a

further move in exactly the same way that he proposes. I will turn, if I may, to the Deputy of St. Mary because despite his occasional being longwinded he is a very effective and accurate analyser of situations. He talked briefly about timing and politely mentioned the election. He talked about competitiveness and groupthink in saying: “Are you really going to find the cuts that you need to save the £6 million that you are giving up today if you do not vote for this amendment?” He then went on, quite rightly, and this is where I do want to appeal to Ministers to do what they have told us we should be doing which is: “Listen to the Fiscal Policy Panel when it tells you what is going on. Further decisions that reduce revenues should be avoided.” How clear is that, Fiscal Policy Panel, the 3 wise persons say exactly that? They say: “Risks are increased; all the risks are downside risks.” All the way through the latest report: “All risks are on the downside”, and finally: “To defer contributions [this measure] is a matter of concern.” How clear can you get it? That is the advice of the Fiscal Policy Panel. The Minister for Treasury and Resources, the Chief Minister are always urging us to listen to them because they are the experts. But we have just got a report, not a week ago, and it says clearly, a reminder: “Further decisions that reduce revenues should be avoided”, cannot get clearer, cannot get clearer. Absolutely clear as a bell, as clear as the nose on the end of Deputy Noel’s face, as he is often reminding us. Deputy Noel, while we are at it, said: “We do not need this money now, we can wait.” Once again, no evidence, he just says: “We do not need it.” In response to the Deputy of St. Mary’s questions about: “Is this really progressive, what sort of measure of it?” He was referring to the 2 charts on page 16 of the Minister’s presentation and he quite rightly points out that all this does ... a negative line there is a regressive measure. The nature of our contributions is regressive, over £44,000 and this measure makes it slightly less regressive. So, it is not, in the purest sense, the fairness measure one might make. I remind people it is a very small measure which makes it less regressive. But currently everyone earning over £44,232 pays nothing into the pension pot in addition to what they already pay, nothing at all, whether it is £60,000 you earn, £70,000, £80,000, £100,000, £150,000, you pay not one penny more than the 6 per cent you pay on £44,232 as everybody else does. This says please pay 2 per cent on the top end of your earnings, not on every earnings, 2 per cent instead of the 6 per cent, that is what it says and that is a fairer measure for higher earners, the top 30 per cent of earners on the Island, than we have got here. It was, as I say, a measure given to us by the Minister for Treasury and Resources as the other half which makes the whole package fair and balanced. Please, Members, let us vote for that balance today. Make the tough and the hard choice, the hard decision, and vote for this amendment today. I maintain the amendment and I call for the appel.

The Deputy Bailiff:

The appel is called for. The vote is on whether to accept the amendment of Deputy Southern to Regulation 13 of the draft regulations. I invite Members to return to their seats and I ask the Greffier to open the voting.

POUR: 10		CONTRE: 36		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Senator S.C. Ferguson		Senator P.F. Routier		
Senator F. du H. Le Gresley		Senator P.F.C. Ozouf		
Deputy G.P. Southern (H)		Senator T.J. Le Main		
Deputy S. Pitman (H)		Senator B.E. Shenton		
Deputy M. Tadier (B)		Senator A.J.H. Maclean		
Deputy of St. Mary		Senator B.I. Le Marquand		
Deputy T.M. Pitman (H)		Connétable of St. Ouen		
Deputy M.R. Higgins (H)		Connétable of St. Helier		
Deputy J.M. Maçon (S)		Connétable of Trinity		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. John		

	Connétable of St. Saviour		
	Connétable of St. Clement		
	Connétable of St. Peter		
	Connétable of St. Lawrence		
	Connétable of St. Mary		
	Deputy R.C. Duhamel (S)		
	Deputy of St. Martin		
	Deputy R.G. Le Hérisssier (S)		
	Deputy J.B. Fox (H)		
	Deputy J.A. Martin (H)		
	Deputy of Grouville		
	Deputy J.A. Hilton (H)		
	Deputy P.V.F. Le Claire (H)		
	Deputy of Trinity		
	Deputy S.S.P.A. Power (B)		
	Deputy K.C. Lewis (S)		
	Deputy I.J. Gorst (C)		
	Deputy A.E. Jeune (B)		
	Deputy A.T. Dupré (C)		
	Deputy E.J. Noel (L)		
	Deputy T.A. Vallois (S)		
	Deputy A.K.F. Green (H)		
	Deputy D.J. De Sousa (H)		

[16:00]

4.7 Draft Social Security (Amendment of Law No. 1) (Jersey) Regulations 201- (P.110/2011) - resumption

The Deputy Bailiff:

So we now return to debate on Regulation 13 of the main regulations. Does any Member wish to speak? No Member wishes to speak, all those Members in favour of adopting Regulation 13, kindly show, those against, the regulation is adopted. Do you wish to propose Regulation 14, Minister?

4.7.1 Deputy I.J. Gorst:

If I may, thank you, if I can remember where I am? Regulation 14, in effect, does the same thing, introducing additional contributions above the ceiling into Schedule 1B, we have just been dealing with Schedule 1A, so I need to ask the Assembly to approve this and then we can move on to the following years, which Deputy Southern wishes to amend.

Deputy G.P. Southern:

Before the Minister sits down, can I ask who the contributors to 1B are?

The Deputy Bailiff:

Well, before you do that, is the Regulation 14 seconded? **[Seconded]** Thank you.

Deputy G.P. Southern:

My speech depends on who 1B is, so I would like to ask the question and ...

The Deputy Bailiff:

Does any other Member wish to speak? I am sorry, Deputy, have I misunderstood you?

Deputy G.P. Southern:

Depending on who is 1B advising you, affects the speech I wish to make.

The Deputy Bailiff:

Minister, could you clarify 1B for the Deputy?

Deputy I.J. Gorst:

Indeed, in a mood of helpfulness, I will. It is Class 2.

The Deputy Bailiff:

Does any Member wish to speak? If any Member is not sure whether he wishes to speak or not, there is no need to. [Laughter]

4.7.2 Deputy G.P. Southern:

The Member who is getting increasingly confused does wish to speak. Yes, Class 2 contributions which is the self-employed. Now this is where I believe we are on dodgy ground because there are lots of things we ought to do, one of which is to subsidise, in some way, contributions made by the self-employed who pay, effectively, employer and employee rates so it is twice the rate now imposing this particular change, addition, on to them, I believe, is pushing things perhaps a little too far. I am not sure I am prepared to support this.

4.7.3 Deputy J.B. Fox of St. Helier:

Just to say that Schedule 2 is not just self-employed, it also employs non-employed so people that are not working, for whatever reason, also fall into this schedule, so they pay twice, if you like, because there is not an employer, so just to clarify that point. Thank you.

4.7.4 Deputy M. Tadier:

Just to follow on from Deputy Southern. The plight of some self-employed people is a very real one. It is something which I was spoken to about very early on in my mandate because, as the Deputy said, there is a perceived unfairness and it depends on the size of the business, but there seem to be many hurdles which small undertakings, self-employed people, technicians, *et cetera*, do face. This is one of those issues and I think it is only going to compound the problem. We want to, as a society, I think irrespective of our differences politically, we want a society which encourages people to be independent, to go out there and be self-sufficient as far as possible, to not rely on the States for their income when they could be working and these people do that in many ways. These are honest Jersey men and women who do go out there to make their own living but they do not want anything from the State apart from, perhaps, a bit of encouragement. I think this is an issue we have not managed to grasp as a Chamber, as a Government, so it is not necessarily the ideal place to be able to resolve that issue, but I think this is, possibly, just making that situation worse and I would ask any future Minister for Social Security and, indeed, all Members to be mindful of this fact.

The Deputy Bailiff:

Does any other Member wish to speak? If not, then I call on the Minister to reply.

4.7.5 Deputy I.J. Gorst:

Sorry, I have forgotten what the comments were. Yes, Deputy Southern would not be supporting this. He, earlier in this debate, raised the issue of what might I be considering with regard to self-employed and I said to him that I had, as part of this, considered whether it is not appropriate to have a reduced rate for self-employed and that there are arguments on both sides of that. I believe, on balance, that it probably is fair that self-employed should have a reduced rate but not above the £44,000 because here we have some extremely well remunerated individuals, not least of which might be partners of law firms, partners of accountancy firms and 1(1)(k)s, and therefore I did not believe that it is appropriate to give that reduced rate at this particular level of earnings but it is something that, as I said, we would be looking at in the next stage of our review and it is appropriate to have a reduced rate for those under this particular ceiling. It does of course deal with

non-employed as well and that is where 1(1)(k)s fit into. It is not, in my view, fair that they should be let off from these increases; albeit I am only proposing one side, that is another reason why on balance I felt it was fair to go with the 2 per cent, not only on employers, because historically self-employed have had to pay both sides and this is a way of them only paying one side, but it is not fair that we let them off altogether; they should be paying at least this one side.

The Deputy Bailiff:

All those Members in favour of adopting regulation kindly show; those against. The regulation is adopted.

4.8 Draft Social Security (Amendment of Law No. 1) (Jersey) Regulations 201-(P.110/2011): Amendment (P.110/2011 Amd.) - paragraph 4

The Deputy Bailiff:

We now come to amendment 4 of Deputy Southern and I ask the Greffier to read the amendment.

The Deputy Greffier of the States:

Amendment 4, page 30, new regulation - after regulation 14 insert the following regulation: "15, schedule 1A amended in 2013. In paragraph 3(2)(c) of schedule 1A for the amount 2 per cent there should be substituted the amount 4 per cent.

4.8.1 Deputy G.P. Southern:

This puts into action the other half of what I wanted to do which was to add to the employer contributions. For similar reasons that I have enunciated before in terms of the States grant to supplementation, we do need to get on with reducing that £65 million hole - because effectively it is - in the economy. This is one way of doing it. The Council of Ministers have already decided to go for this 2 per cent contribution from employers and I have maintained it despite the additional money coming in, the £14 million that we have heard about which may or may not be dependable. Nonetheless, they have gone with this. Somewhere in my opening speech I mentioned the Minister for Treasury and Resources saying that there would be further increases in the pipeline and they will be phased-in over the next 2 or 3 years. I am taking him literally at his word with this amendment here which says that come 2013 we should raise this once more from 2 per cent to 4 per cent again; again it would only apply on earnings over £44,232 and the employer paying his employees over that amount. So again it is the top end but it is coming from the employer. If Members turn to either page 3 of the comments or one of the sides of the employer contributions, they will see that in terms of the competitive argument this 2 per cent is the red line, it is the second line, it is just below the Guernsey contribution so in terms of its competitiveness it is more competitive than Guernsey, it has not gone over the threshold and, therefore, is a safe thing to do in terms of competition. I believe it is a safe thing to do in 2013 in any case and it will go some way to what I call rebalancing the fiscal burden between personal taxation and company taxation. I will draw Members attention to page 11 of my report, which has that table of the way in which company taxation and personal taxation have developed over the past decade to the extent that personal taxation has gone up by a factor of 2, it has doubled over that decade; whereas company taxation has been reduced from 52 per cent of total tax take to around 15 or 12 per cent, so it has been quartered, it has been reduced to a quarter of what it used to be. I do not believe that raising the contribution to social security and thereby to reducing the supplementation bill is a great deal of burden if we raise that 2 per cent this year and 4 per cent next and the next amendment will say to 6 per cent right the way through the year after that, and give employers notice that this is our intention. Certainly this amendment, part 4, only proposes the 4 per cent for 2013.

The Deputy Bailiff:

Is the amendment seconded? [Seconded]

Senator P.F.C. Ozouf:

I did not second it, Sir. [Laughter]

The Deputy Bailiff:

You did not second it?

Senator P.F.C. Ozouf:

I am sure I did not. [Laughter]

Deputy G.P. Southern:

Deputy Jeune, I believe. [Laughter]

The Deputy Bailiff:

I am not sure whether the Assistant Minister seconded it or not but at any rate it is seconded.

4.8.2 Senator P.F.C. Ozouf:

May I first of all recognise Deputy Southern for presenting this particular amendment in a completely non-personal way and just simply on the facts. I am going to certainly argue this on the facts in terms of that there is a difference of view in relation to this. I hope there is not a continuing difference of view on the Social Security bench at the back there. I do just say that because I want to speak early in this debate because I am not probably going to have a further opportunity to respond to some of - if I just may briefly say - some pretty I think unacceptable personal remarks made by Deputy Higgins, and I hope he does not repeat them. We are entitled to our view in relation to economic management and I would distance myself from any suggestion of smoke and mirrors or anything like that which the Deputy suggested. I hope that he will remain respectful of the fact that we can have differences of opinion without suggesting that there is not any underhand manoeuvrings, which absolutely is not the case. I am going to argue that this is not, in the last debate, this is a more serious issue, that this is not just an issue of timing. It is an increase in terms of the cost for employers which will be immediate, permanent and, in my view, will have unintended consequences. This will increase the cost of employing people, Deputy Southern has been clear about that. I am concerned that increasing the cost of employing people, which will affect all individuals earning over £44,000, all business not just finance, this will have a detrimental effect to the economy. This will have a detrimental effect in relation to job creation and it will have an effect on all those businesses who are employing people and that will have an effect ultimately on our tax take. The finance industry is clearly going to be affected by that; they are the biggest contributor to the economy and they do have a significant number of people employed in the salary band over £44,000. The finance industry survey indicates that there is confidence returning, albeit slowly, and in view of the difficult economic situation that the world finds itself; but there is cautious room for optimism in terms of growth in financial services. I would not want to increase further - and I fully accept that we are putting 2 per cent on employers over the cap - I would not want to add any further to that burden at a time when the finance industry is recovering and is looking at options of location, *et cetera*. I accept in this debate that this increase over the employers' contribution at this level of this amendment would be less than Guernsey; but I would also say that Guernsey implemented their charge on employers contribution as an alternative measure in order to deal with their deficit, but at a time when the economy was much stronger.

[16:15]

That is not the case now. They also increased it in stages, as I recall, not 4 per cent on the full gap between £44,000 and £150,000. I do not want to take the Assembly's time in any great extent but I think that the simple issue is that putting a cost on all businesses employing people in this way will have unintended consequences to an already fragile but recovering - and I hope Deputy Higgins is clear about where I stand on this - the economy is recovering but it is fragile and we need to do everything that we can to support that. We need to encourage business to grow, we need to stick to

the principles which were set out in the fiscal strategy review, which did set out this 2 per cent for employers. This amendment, if it is accepted, I am even more worried about the 6 per cent than I am the 4 per cent; but I am worried that there is the consequence that this amendment would stifle growth, lead to less or at best stagnate employment and would not be in the overall interest of the Island economy and our public finances generally. I urge Members to reject this amendment. I am happy to give way if the Deputy wanted clarification.

Deputy G.P. Southern:

Can I just seek clarification from the Minister as to whether he thinks that recovery will be firmly in place by 2013; what is his opinion? Is there any case as with my amendment; is this a proposal that he is thinking of but he does not want to do it just yet, is this effectively being deferred for some later year?

Senator P.F.C. Ozouf:

I am clear from the advice; and it is not just the Treasury with a crystal ball that decides on economic growth projections, we have an independent Economics Unit, Statistics Unit, the Business Tendency Survey; and of course the F.P.P. I am confident that the economic recovery is underway in financial services. I am confident that profitability is returning but I do not want to do anything at all to disrupt that and this is going to send out a message; this is an important increase in terms of employers contribution and the cost of employment, it is a job tax, and that is only going to have an effect on stifling jobs, 2 per cent is acceptable, 4 per cent is not. In terms of what is in my mind in terms of that, I have set out the Fiscal Strategy Review, if anything I want to reduce the impact on all taxes but only into the margin that is acceptable, and we have already had a debate about that. It is cautious optimism but we should not do anything to disrupt it, this will disrupt it and, no, I do not propose anything above that, that has already been set out in the F.S.R., that was consulted upon and I do not propose to go any further than that. The Deputy knows that.

4.8.3 Senator S.C. Ferguson:

Yes, the problem is that I do not think that everybody in this Assembly quite understands that any tax imposed on companies is not paid by the companies. It is paid by the employees in lower wages, by the shareholders in lower returns, and by the customers in higher prices. It, therefore, affects our competitive edge. On a more general point, the evidence is that the best taxes to encourage economic growth are property taxes and consumption taxes. Yes, in an ideal world I would get rid of all corporation taxes and all income taxes and just have property and consumption taxes. But I think that may take a little time and should perhaps be the 40-year strategic plan.

4.8.4 Deputy M. Tadier:

I have heard some wacky right wing ideas to raise revenue but taxing people with tuberculosis has to be the lowest of the low when we are talking about consumption taxes. Certain conservatives really will stoop so low. I think it is clear now that what was already known in my mind and known to many people in this Island is that this Assembly is essentially here to pass policy which is good for the wealthy, good for capital in the Island, which punishes workers and which punishes lower earners. This is clearly what we have seen. The Deputy's previous amendment would have been slightly more progressive so that surely people who earn the most should contribute. If you earn under £44,000 you pay 2 per cent, it is essentially a tax even though it goes into a certain part. If you are lucky enough to earn higher you do not get taxed any extra. So the more you earn the less we will tax you so the incentive is to be rich in our society, not to be poor. The idea with this proposition I think we need to go back one step and ask who is doing whom the favour when it comes to employment? Companies do not act altruistically, they are there to make a profit, we know this. Essentially, the way they make profit is by exploiting labour - as in the Marxist sense of the word - in the sense that the worker does not get his or her full share of the value of his or her labour, that goes to the capitalist. So the idea here is asking the employer, the capitalist, to make a

stronger contribution; not 2 per cent, which is proportional, but 4 per cent which is progressive. So we constantly get what I would call scaremongering from the Minister for Treasury and Resources and his acolytes saying that if they do not do this they are going to find it hard to employ people in their companies, that companies are going to leave. The question I want to ask is how many incentives does one need to come to the Island; because quite clearly if an employer is going to have to pay an extra 4 per cent - and it is not 4 per cent across the board remember, it is 4 per cent on those workers who earn over £44,000, curiously which is more or less our wage, but I am not sure if that is a coincidence ... it is a coincidence I have been told, but that is probably for a previous debate. The employer is only going to pay for those higher net worth individuals in the employment sense; so those who earn a decent wage between £44,000 or above and they can afford to pay it, I would suggest. There are many reasons to come to the Island, for these companies to stay here and for people to be employed here; that is because they pay 20 per cent tax or sometimes less. Jersey is a great place to be. I think the continual scaremongering saying if we make those who have got the capital, who benefit from labour in the Island pay more and they are going to leave is complete nonsense. There are reasons to do business in Jersey; geographically, economically and socially and to do with the infrastructure in the Island. There is never going to be a good time because we are saying that we are in tentative times, times are possibly going to get worse, nobody knows these things. I think essentially this argument is futile, I know that, but it can serve to hopefully at least be put on the record. I and other Members of this Island know that this States only makes legislation and policy to the detriment of the less well-off and it will always be here as things currently stand to protect capital and to protect privilege and to protect the wealthy; and this vote will prove it.

4.8.5 Deputy P.V.F. Le Claire:

When I first made the claim in the Assembly that I was from a poor background I went home and was chastised by my mother who said at the time: "Never say you are poor." I said: "I cannot understand that rationale, mum, you being a member of St. Francis of Assisi order, having brought us all up knowing that it is not wealth, it is character that makes somebody a better person in society." Manners, we were taught, make a man, not money. So I find it quite difficult to swallow when I understand and I do sympathise with some of the frustrations that Deputy Tadier has in relation to getting things done in the manner that he would like. But I have got to say that speech of his I cannot endorse. We are not here to just pass legislation for the rich. I have not come from a rich background, I agree with Members when they put forward legislation for propositions and amendments where I feel that I have managed to come to agreement with it because of a rounded decision. Sometimes those decisions will vary from colleagues, including Deputy Tadier who in this instance I will be voting the opposite spectrum of. But that does not mean in the future I will not be supporting issues that he has or I have that come before the Assembly. The personalisation of issues at this time does not do us or the Island any good whatsoever. We have had a tremendous period of difficulty to face in Jersey and I think that we have got to be cognisant of the fact that there is argument being put forward this afternoon that the propositions and amendments that have been brought - particularly in respect of the amendment by Deputy Southern - may be coming at a time that might be detrimental to the poor. We have evidence of the fact that these times we are seeing unprecedented levels of unemployment in Jersey. We have also seen a doubling of those in long term unemployed; a key indicator of a problem in employment. I also believe - along with the Minister for Treasury and Resources and others who have expressed this view - that this is not the right time to be putting more burden upon a fragile economy because if we put more burden upon the businesses that employ people in a fragile period we may very well break them and then we will have more unemployed, and that is not going to help the poor people in any way, shape or form whatsoever. So I think it is time that we focused on the fact that we have bigger things to debate, changes in structure that will help us achieve better things for people in this Island. But this particular method of taxing people is, in my view, completely the wrong way of doing things. We should not be always looking to tax people. The public have been trying to say this out loud for a

number of years; stop spending so much money, stop spending so much money, stop wasting money and stop taxing us. That is what they are saying, that is the message I am getting loud and clear in my ears from everybody I am talking to: “Stop taxing us so much.” They are not saying - as the newspapers say - stop talking so much, Deputy; they are saying: “Stop taxing. Stop taxing us. Stop taking the money off us. Stop putting bureaucracy in front of us. Stop putting regulation in front of us. Get out of our way, allow us to move forwards.” Because ordinary people are facing challenges placed upon them by private enterprises, let alone this Government; heating bills, costs of living, the things that we have not done in order to achieve affordable home ownership, *et cetera*, and things like that. Those are the issues that we need to start to address; this amendment is going to - in my view - affect some employers to the point where it might break a couple of them and at this stage in time I do not think we can afford to lose any employer and we cannot afford to lose any job. So I am sorry to say we need to vote against this amendment, and I would urge Deputy Tadier to think again about the suggestion that this Assembly only exists for the wealthy because I am not wealthy, I am not here to vote for the poor, I am not here to vote for the rich, I am here to vote for what I think is the best solution for the Island. If there are wealthy people providing taxes and income and generating jobs that will afford social services then I will vote for those propositions; and we clearly do not, or where they clearly threaten those situations I will vote against them.

Deputy M. Tadier:

May I ask for a point of order? I think the Deputy imputed false motives; at no point during my speech was there anything personalised and I think that is what the Deputy was imputing. Would the Deputy care to take that comment back or acknowledge that in no way was my speech personal, it was entirely political? It may be politics he does not agree with but it was a political statement about what I believe is the majority policies of this Assembly.

Deputy P.V.F. Le Claire:

I am happy to explain my speech to the Deputy. What I was referring to was recent debates where issues have become personalised, not focusing on the issues they are focusing on the personal differences that we hold politically. Now, if the Deputy thought that I imputed him in some way I will naturally withdraw that imputation; it was not my intention and I do not believe that I did in fact do that. What I was trying to address was the fact that the Deputy was inferring that this States Assembly exists purely for the rich, which I wholly contest.

The Deputy Bailiff:

I have to say, Deputy Tadier, I did not understand Deputy Le Claire to be making any personal imputation.

Deputy M. Tadier:

It was simply the juxtaposition but I am grateful for the clarification.

4.8.6 Deputy A.E. Jeune:

I would just like to say that my interpretation of a rich background is that it can be based on love, affection and care; not just on money.

[16:30]

But I would not wish to act to the detriment of employment in this Island and while this will not affect those on lower earnings they are often part of an organisation which does employ higher earners, and I do not wish to put any of that at risk. Just to be clear, I will not be supporting the amendment.

4.8.7 Deputy M.R. Higgins:

I will start off by saying that I have a great deal of sympathy with Deputy Southern when he talks about the shift in corporate taxation to personal taxation. I think it is absolutely criminal the way that it is going and how the burden is being placed on individuals. I do believe that although we have been assured that the Council of Ministers are going to recover money that has gone to overseas-owned corporations and the loss of tax revenue; I have got to say I do not believe a word of it. I cannot see any measure that they can bring into do it and, in fact, I will apologise if and when the Minister for Treasury does come up with measures that successfully do it. I will also say too that I think it is going to worsen; even the Fiscal Policy Panel, if you read parts of their report, do seem to give an indication of it all drifting that way. I also believe there is some scaremongering but on this particular issue I am concerned, I have got to admit. The reason why is there are changes taking place in the employment market; not only in Jersey but I have been looking at what has been happening in the United States and also looking at what is happening in the United Kingdom in their employment markets. What we are seeing is there is a growth in part-time working more so than full-time working, and we are also seeing people having really some strange contracts, which I hope we never get in this Island, although I suspect they are creeping into this Island; where people basically are employed as and when they are required by an employer, they have got no hours. Yes, well, okay, the zero hours so that type of contract is totally unbelievable. How people can afford to pay for their food bills let alone to get housing, I will never know, on a contract like that. The point I want to make is that we have already seen, for example, in the Island a loss of back office jobs; it is starting to move into other areas now including secretarial and others. Now, the Fiscal Policy Panel have mentioned in their own report: "There are clear indications that the local labour market has been significantly weakened by the downturn; most notably in the rise of those unemployed and actively seeking work." They mention there is stability at the moment in the headline employment rate: "... hides a shift in employment from full-time to part-time jobs and a shift from finance to other sectors" and he mentions how finance employment in December 2010 was 750 below the peak in 2008 and how over 200 of the growth in part-time jobs has since been concentrated in retail and wholesale. Now, my position at the moment - until I hear from Deputy Southern at the end here - is that I will certainly support the 2 per cent increase; I am slightly concerned at the moment of putting it up to 4 per cent or 6 per cent, but it may well be that in 12 months' time or 24 months' time we may well be doing that. But the point is I am concerned about changes in the employment market which are happening elsewhere, and which are starting to move into here, which could have a very detrimental effect on people who are not the most qualified of people. I am afraid that we are going to have, I suspect, much larger numbers unemployed, certainly among the young. I think we may have had the situation where we are going to have a lost generation. We have already got the people who have been in the last 12 months, and I am afraid for the school leavers who are leaving this time; I do not see the jobs being there for them. So I am somewhat reluctant to support increasing the burden; although I do believe that companies should be paying more in taxes and individuals paying less.

4.8.8 Senator T.J. Le Main:

I am getting really depressed, I am. This is only another ploy to ... I do not know what to say; so detrimental to employers. This is nothing but a job tax. Everywhere I go I meet quite a lot of people - small employers, big employers - they are sick to death of more taxes, higher rents, higher commercial rates. Many of them now are not taking apprentices because of the high costs and yet here we have another tax, a job tax. It really is nothing but driving us backwards and, as I say, people are getting absolutely fed up of some of the Members in this Assembly who just want to ... I do not know what the word is, I do not really want to be rude because I am going to get told off again. There is no way that this Assembly, if you want to create stability in the job market, if you want to try to encourage small business, small employers to maintain their businesses and to improve their businesses, the last thing one wants to do is to have another job tax as proposed today. I am totally disillusioned coming into this Assembly and the way we are carrying on for week after week after day after day on some of the ideas being put forward by certain Members. I

will be, as you can imagine, totally opposed to what is being proposed by Deputy Southern and I really do not think it is going to do him a lot of good in the elections coming up, all these fancy ideas quite honestly. [Aside]

The Deputy Bailiff:

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

4.8.9 Deputy G.P. Southern:

What a thoroughly enjoyable debate, highlighted by Senator Le Main doing his party piece. Senator Ozouf said this is not about timing; this will increase costs and thereby immediately pointed out the dichotomy that we keep on receiving. We keep being told that companies do not pay tax and yet if we charge a tax, that increases their costs. Well, hang on, if they do not pay it, it does not increase their costs and this was superbly highlighted by Senator Le Main who said he was sick to death of people coming to him about the taxes increasing on business. Well, hang on, where has he been because it cannot be in Jersey, surely, because we have reduced the taxes on the finance sector from 20 per cent to 10 per cent and reduced the tax on non-finance, non-local tax, from 20 per cent to zero so what were they complaining about? I do not know; it beats me. However, interestingly, the Minister for Treasury and Resources is confident about 2013. In fact, he is confident the recovery is in place now but we cannot possibly increase taxation in 2013 when presumably the recovery is firmly in place and everything is hunky-dory again but we could not possibly charge a tax on what might be largely finance companies who have had their tax reduced from 20 per cent to 10 per cent but they do not pay tax anyway. I am particularly interested in his statement that he has no plans to do anything like this in the future because it seems to me that we are going to have to have an increasing demand on finding revenues as we go forward, whether or not we get a great big recovery, but he has got no plans to do anything like this in the future. Well, I hope he can get away with it is all I can say - and I come back to where I started whenever it was, this morning - talking about supplementation. Supplementation costs this Island, costs the taxpayer £65 million that goes into topping-up the Social Security Fund, £65 million. We have to deal with that. It is effectively a hole in our finances. At the moment, we are proceeding with one measure so we are talking only about £6 million out of the £65 million. We have made a little dent in it, a little 10 per cent change that reduces our supplementation bill. We have to deal with the elephant in the room sooner or later so while I wish the Minister for Treasury and Resources all success in saying that he will avoid doing anything like this as he goes through the coming years into the recovery, I hope he can get away with it but he has got to do something about supplementation sooner or later. Somebody has got to do something about it. I have been hearing that for the past 8 years: "When are we going to do something about supplementation?" The answer at the moment is: "We have got 10 per cent of it this year and the rest can wait." What are we going to do with a £60 million bill next year? Wring our hands and say: "Oh, woe is me, woe is me." So his phrase that he used in the Budget, the F.S.R. tax increases announced today will be phased-in over 3 years with greater increases in later years. I wait to see where they are and what they are because he said they will not be these. I would like to thank Deputy Tadier's contribution because whatever vote I thought I had in this proposition, he took 17 off that number and perhaps a bit more. Then I would like to thank Deputy Le Claire for only speaking for 5 minutes 30 seconds in my bit of this when he said the people are saying: "Stop taxing us; stop taxing us." The fact is that this is a business tax but he too is taken in by this threat that all these jobs are going to go if we dare to tax people earning over £44,232 at 2 per cent more than we otherwise would. Deputy Jeune too has visions of great masses of unemployed cluttering the streets and Deputy Higgins says there is some scaremongering going along and then proceeded to do a very good imitation of Eeyore saying: "We are all doomed; we are all doomed." [Aside] There were concerns; yes, there are concerns indeed. I maintain the proposition. I look forward to the vote and seeing if I can get into double figures.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on amendment 4 of Deputy Southern and I ask the Greffier to open the voting.

POUR: 4

Deputy G.P. Southern (H)
Deputy S. Pitman (H)
Deputy M. Tadier (B)
Deputy T.M. Pitman (H)

CONTRE: 39

Senator T.A. Le Sueur
Senator P.F. Routier
Senator P.F.C. Ozouf
Senator T.J. Le Main
Senator B.E. Shenton
Senator A. Breckon
Senator S.C. Ferguson
Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator F. du H. Le Gresley
Connétable of St. Ouen
Connétable of Trinity
Connétable of Grouville
Connétable of St. Brelade
Connétable of St. John
Connétable of St. Saviour
Connétable of St. Clement
Connétable of St. Peter
Connétable of St. Mary
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy R.G. Le Hérissier (S)
Deputy J.B. Fox (H)
Deputy J.A. Martin (H)
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy P.V.F. Le Claire (H)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy I.J. Gorst (C)
Deputy of St. John
Deputy A.E. Jeune (B)
Deputy A.T. Dupré (C)
Deputy E.J. Noel (L)
Deputy T.A. Vallois (S)
Deputy M.R. Higgins (H)
Deputy A.K.F. Green (H)
Deputy D.J. De Sousa (H)
Deputy J.M. Maçon (S)

ABSTAIN: 0

The Deputy Bailiff:

Deputy Southern, in the light of the rejection of that amendment, I think your amendment 5 falls?

Deputy G.P. Southern:

That is my understanding too.

4.9 Draft Social Security (Amendment of Law No. 1) (Jersey) Regulations 201- (P.110/2011) - resumption

The Deputy Bailiff:

Very well. We now return to Regulation 3, Minister, which I think has not yet been considered and which you now wish to propose.

4.9.1 Deputy I.J. Gorst:

Yes. Regulation 3 amends Article 4. It changes the words with regard to earnings related to the new terminology and it also points out with regard to the new Article 9, which we will come to under Regulation 7, the amounts to be determined with regard to supplementing contributions.

The Deputy Bailiff:

Is the Regulation seconded? **[Seconded]** Does any Member wish to speak? All Members in favour of adopting Regulation 3, kindly show. Those against. The regulation is adopted. We now go to Regulation 7, which I think has also not yet been proposed.

4.10 Deputy I.J. Gorst:

Yes. Regulation 7 introduces a new Article 9A. In effect, this is the new calculation for supplementation which will allow us to know with certainty, before a Business Plan is presented, the amount that the States are going to pay in grant so it is no longer the actual supplementation that is required in the year but it is a new calculation so that we can know and not see it grow within the year, which I think is a step forward and I hope that Members will welcome it.

[16:45]

The Deputy Bailiff:

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

4.10.1 Deputy G.P. Southern:

Yes, this is a bit of tidying-up that makes the prediction of how big the supplementation hole is more accurate so we will know what size hole we are in in future.

4.10.2 Senator P.F. Routier:

I think after the previous speaker has just identified, this is a very, very positive thing for forward planning for the States as a whole. We will now know exactly what the supplementation amount is and we will be able to plan for the future very successfully so I am glad he supports that.

The Deputy Bailiff:

Does any other Member wish to speak? I call on the Minister to reply if you wish.

4.10.3 Deputy I.J. Gorst:

It is slightly frustrating to hear the Deputy on the front row refer to supplementation as a “hole” and I hope I nailed once and for all what my view was with regard to supplementation. It is perfectly fine for Members to take the view that it is something that we should eliminate from the responsibility of the taxpayer but what supplementation is, in effect, is taxpayers contributing into the Social Security Fund to enable low earners who do not make up to the current £44,000 threshold and the new threshold going forward, that is not the £150,000 but the £44,000 uprated, those people who do not earn that much we put money in to increase their contribution to that level so that we can all take out the same amount in benefits. So in actual fact, it is providing appropriate benefit for low-earning members of our community and I, for one, fully stand by it. I maintain Regulation 7.

The Deputy Bailiff:

Deputy Southern, I am so sorry. I should have just confirmed with you a moment ago that your amendments to this regulation fall away as a result of the vote that has been ...

Deputy G.P. Southern:

My understanding is that all my amendments now fall away.

The Deputy Bailiff:

Yes, thank you very much. All Members, therefore, in favour of adopting Regulation 7, kindly show. Those against. The regulation is adopted. We now come to Regulation 12.

4.11 Deputy I.J. Gorst:

Yes. Regulation 12 further amends the new Article 9A along the lines of determining what the value of the States grant will be and it introduces the additional contribution above the ceiling into that calculation so we have got a new calculation and, in effect, it offsets that against the calculation which needs to be or the supplementation contribution required is offset by what we are going to garner from the new contribution rate. I hope that has made it clear.

The Deputy Bailiff:

Is Regulation 12 seconded? **[Seconded]** Does any Member wish to speak on Regulation 12? All Members in favour of adopting Regulation 12, kindly show. Those against. The regulation is adopted. You now wish to come to Regulation 15, Minister?

4.12 Deputy I.J. Gorst:

If I may, yes. This simply gives effect to the dates when the regulations that we have just approved come into force; that is October and January of next year.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on Regulation 15? All those Members in favour of adopting Regulation 15, kindly show. Those against. The regulation is adopted. Do you now move the Bill in Third Reading?

4.13 Deputy I.J. Gorst:

I do if I may, Sir. I thank Members for their support. I recognise that there have been some difficult decisions which we have had to make and I just want to reiterate that it is a change in the way that Social Security is funded. It is now enabling a level of redistribution within the fund, as Deputy Southern said, albeit in a small way. I think that is appropriate. It is, of course, something which will be kept under review but we must be mindful of the medium and long-term requirements of the Pension Fund as we go forward.

The Deputy Bailiff:

Is the adoption of the Bill in Third Reading seconded? **[Seconded]** Does any Member wish to speak on the adoption of the regulations in Third Reading?

4.13.1 Deputy G.P. Southern:

Just briefly to commend what I believe is the biggest element, which is the most positive element of these particular changes which is that element which assesses new starters, new entrepreneurs on their proposed earnings rather than on the past 3 years' earnings which will enable many start-up businesses to function and not go under because it is a serious problem, and this is a move that I congratulate the Minister on having done after some considerable time. **[Approbation]**

4.13.2 Senator P.F.C. Ozouf:

Just very briefly, may I just thank the Minister for Social Security for being such a co-operative partner in relation to dealing with public finances and to say how grateful we are for his co-operation and his office's co-operation and also to say that there is a tension between Social Security and Treasury. I do not think it should be merged, if I may say to Deputy Le Claire. It should be separate and long may the tension but co-operation continue.

4.13.3 Senator P.F. Routier:

I just follow on from what the Minister for Treasury and Resources said in regard to co-operation between the Treasury and the Social Security Department. I just really want to re-emphasise the matter that the Social Security Fund is very, very important and it belongs to the public of the Island and I hope that the Minister for Treasury and Resources does not have his eyes too firmly set on it.

4.13.4 Deputy P.V.F. Le Claire:

I would like to congratulate the Minister for taking some difficult decisions this year; not an easy year to take difficult decisions, especially in an election period. He has done that so he is to be congratulated, and also his Assistant Minister for doing likewise and supporting him. Senator Ozouf and I do not agree about the elimination of the Minister for Social Security's Ministry. I do not think any real thought has been given to the benefits that might accrue if we downsized some of our systems and put across some of the cost savings that might be achieved if we did that, so I will reserve my differences if I might. I would also like to say that the Minister for Treasury and Resources is being co-operative in achieving this so he is to be congratulated. I know I did not please some of the Members by speaking in the way that I did earlier but I do honestly believe this States Assembly does try its best to make the difficult decisions for the best of the Island. I do not believe it is weighted against one part of the community against another. I just think that sometimes we have to retain the only industry we have. It is the finance industry and it is the only thing here. We have to look after it.

The Greffier of the States (in the Chair):

This is the Third Reading. Standing Orders say that debate is confined to the content of the draft as adopted in Second Reading. We must not just have speeches after speeches on matters, Deputy. I am sorry. We have a lot of business to get through.

Deputy P.V.F. Le Claire:

Yes, Sir; I had finished.

Deputy T.M. Pitman:

Just clarification. The Deputy did not upset people by the way he spoke. He upset people because he spoke.

The Greffier of the States (in the Chair):

I call on the Minister to reply.

4.13.5 Deputy I.J. Gorst:

I am grateful for the acknowledgement of the piece of work the department has been able to bring forward. While I understand exactly what Deputy Le Claire is saying, there must be a healthy tension between tax-raising revenue and the protection of the pension pot, and I hope that that healthy tension will continue and that is one of the reasons why we are where we are today, presenting the proposals which we have presented and which Members thankfully have supported. I would like to particularly thank my Director of Policy and the law draftsman who is responsible for this. It has been a large piece of work. They have spent a long number of hours bringing it forward and it will, in my view, enhance the Social Security Law going forward and it will make it more flexible and it will allow it to be used in the way that we as a community wish to use it while at the same time offering all due protection. So I maintain the Law in Third Reading.

The Greffier of the States (in the Chair):

The appel is called for in Third Reading. Members are in their seats. I will ask the Greffier to open the voting.

POUR: 41

CONTRE: 1

ABSTAIN: 0

Senator T.A. Le Sueur
Senator P.F. Routier
Senator P.F.C. Ozouf
Senator T.J. Le Main
Senator B.E. Shenton
Senator A. Breckon
Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator F. du H. Le Gresley
Connétable of St. Ouen
Connétable of St. Helier
Connétable of Trinity
Connétable of Grouville
Connétable of St. Brelade
Connétable of St. Saviour
Connétable of St. Clement
Connétable of St. Peter
Connétable of St. Mary
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy R.G. Le Hérisier (S)
Deputy J.B. Fox (H)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy P.V.F. Le Claire (H)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy K.C. Lewis (S)
Deputy I.J. Gorst (C)
Deputy of St. John
Deputy M. Tadier (B)
Deputy A.E. Jeune (B)
Deputy T.M. Pitman (H)
Deputy A.T. Dupré (C)
Deputy E.J. Noel (L)
Deputy T.A. Vallois (S)
Deputy A.K.F. Green (H)
Deputy D.J. De Sousa (H)
Deputy J.M. Maçon (S)

Deputy S. Pitman (H)

5. Draft Long-Term Care (Jersey) Law 201- (P.108/2011)

The Greffier of the States (in the Chair):

We come now to the Draft Long-Term Care (Jersey) Law 201-. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Long-Term Care (Jersey) Law 201-. A Law to make provision for the long-term health care of Jersey residents. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

5.1 Deputy I.J. Gorst (The Minister for Social Security):

I hope that Members will bear with me; it is me again and I have got a reasonably lengthy speech because I believe it is an important piece of legislation and we must appropriately consider it and on that note, hopefully it will allow time for Members to leave the Chamber. **[Laughter]** Today, I

am asking again for Members to address a challenge posed by Jersey's ageing population and that is the rising cost of long-term care. I am asking the Assembly to approve enabling legislation that will reform the current system of funding for long-term care. However, from the outset, I want to stress that approving this proposition is but a first step on the road to a new scheme. The question of how best to meet the increasing costs of care has to be addressed and, on a human level, we have to remove the financial uncertainty and worry that many Islanders face as they, or a close family member, moves into care. A new policy is called for that has, at its core, a more community-based approach to an issue that may affect at least one in 4 of us in our future. How care is funded is a contentious subject. Combine this with the challenges posed by an ageing population and the issue becomes one that has implications for the whole Island community. Many western countries are facing the prospect of increasing care costs associated with their growing number of elderly people. While the provision of such care has always been expensive, the situation is now exacerbated by the number of people who may need care in the future. By 2040, those aged 65 and over will account for almost one in 3 of Jersey's population. By 2025 alone, there will be 8,000 more people aged over 65 in Jersey. Quite simply, in the decades to come, there will be many more people needing long-term care. In 2009, the States of Jersey spent around £30 million on long-term care. This funding was directed through Health and Social Services, mainly on nursing care, and the Social Security Department through the provision of means tested assistance with residential care costs through Income Support. At the same time, individuals spent an estimated £25 million of their own money on paying for long-term care. By 2026, it is estimated that care costs in real terms - that is not including inflation - will have doubled. This means that the States contribution funded through the taxpayer will rise to around £60 million a year. This rising cost will have to be funded whether Members support these proposals today or not. With competing claims on government revenues, the States faces a dilemma. Quite simply, how is it going to fund this necessary expenditure? The dramatic impact these demographic changes are going to have on the demand for and cost of long-term care means we have little choice but to focus our minds on this important funding issue. When I became Minister for Social Security, I was aware that the current arrangements for funding long-term care still operating today had already been the subject of some comment. The Health, Social Security and Housing Scrutiny Panel published a report on long-term care of the elderly in December 2008, soon after I took office. It raised a number of issues and recommended a new approach to the current funding arrangements. The Strategic Plan published by the Council of Ministers in early 2009 included a commitment under the section "Provide for the ageing population" to introduce an Island-wide scheme to meet the costs of individuals' residential care needs. On a more personal level, I, along with other Members, have received calls from worried constituents expressing their frustration about what they see as the complexity and unfairness of the current funding system.

[17:00]

The reality is that until families come into contact with the present system, usually at a very stressful time, they have little idea of how it works or the costs involved. It is clear that something is not right. There is some doubt as to whether the current scheme is fit for purpose and robust enough to deal with the challenges that lie ahead. Prompted by these concerns, we published a detailed Green Paper in early 2010 seeking the views of Islanders on how long-term care should be funded in the future. The Green Paper was a full consultation. When it was published, no decision had been made to move away from the current funding arrangements. Indeed, retaining the current system was one of the options presented for consideration. If it had received a vote of confidence from the public, I would not be standing in front of you today. In drawing up the questionnaire that complemented the Green Paper, we sought meaningful answers from the public. We tried hard to ensure that, in expressing their views, people were aware of the financial implications of their preferred approach. It would have been disingenuous and a waste of time to ask people to suggest their preferred approach without at the same time asking them how and if they were prepared to

meet the attached cost. Features in the press, focus groups, public meetings, presentations to school sixth forms and adverts on the internet were all used to raise the profile of the consultation and to promote it across the community as a whole. Beyond the consultation, the issue of long-term care funding was considered at last year's Youth Assembly. Debates around the issue also formed part of the scrutiny-led events across the Island's Secondary School that form part of the Citizenship Programme. My point is that in deciding how to move forward, major efforts have been made to engage with the population at large, including young people. This was rewarded in the 550 responses that were received to the Green Paper. I even know that a number of Members took the time to complete the questionnaire. A clear desire for change was the principal message from the consultation and a clear consensus emerged on the preferred future direction, namely that of creating a long-term care benefit funded by dedicated Social Security contributions and directed into a ring-fenced fund. This option then formed the focal point of the proposals I put forward late last year in my White Paper, and it is this proposal that is at the core of the scheme I bring forward for approval by Members today. I want to say more about the thinking that has informed my proposals. The current arrangements place responsibility for paying long-term care fees on the individual who, through no fault of their own, finds themselves in the unfortunate position of requiring care. It seems a strange state of affairs where hospital-based care is effectively free at the point of delivery with no means testing while social care, lifesaving for older people, has to be paid for. This does not seem right. Nonetheless, we have to recognise economic realities, and to move to completely free long-term care at the point of delivery for everyone would be a step too far. My proposals are a compromise. They pool the risk across the community at large and alleviate some of the burden of individuals' liability for care fees, which can run into hundreds of thousands of pounds. As well as addressing the issue of fairness, it sends out the message that older members of society are just that, still valued members of society. Their twilight years should be free from financial worries. It is the very least that they deserve. It was the Beatles who, back in 1960 sang: "Will you still need me? Will you still feed me when I'm 64?" **[Aside]** If only I could, Deputy. I will try and move on quickly before we become too raucous. I think if Paul McCartney was writing that lyric today, it might be 84 rather than 64 but the sentiment still holds true. It makes the point that social care is not just about cost. We should never forget that we are considering people's lives. How we deal with elderly members of our community is often how we are judged as a society and I want Jersey to be an inclusive society. The older generation deserve dignity and respect. The scheme I am proposing will help in a small way to achieve this. A key aspect of my proposals is the extension of the long-term care benefit to cover high level care at home. This is very much in tune with one of the key messages from the Health and Social Services Review which stresses that it may often be more appropriate and cost-effective to care for people in their own home. It is generally agreed that too many people are moving into residential care, in part because of the lack of a full range of what is termed community or domiciliary care provision. Suppliers such as Family Nursing and Home Care do a great job but cannot always meet demand. The availability of funding for high-level care at home should encourage the development of a market in these services. The new funding arrangements will complement efforts being made to support people to live independently in their own home. This can avoid or delay the need for moves into institutional care by the provision of extensive care at home. Choice is central to the new scheme and research tells us that, given the choice, many older people would prefer to stay in their own home for as long as possible. This new scheme will facilitate this so long as it is practical and safe to do so. At this juncture, it would be remiss of me not to recognise the essential contribution made by unpaid carers today and every day. **[Approbation]** Without their dedicated and unselfish support, the care of their loved ones, the overall bill for long-term care would be much higher. The proposed new funding arrangements should bring benefits to carers too. I know that many carers will not want to give up their caring role entirely but the funding of approved high-level care packages may allow them to supplement the care they provide and to access respite care for their loved ones. With the incidence of Alzheimer's and dementia on the increase, the long-term care benefit should be of particular assistance to family carers who support someone whose mind may

have deteriorated but who remains fit in body. Sufferers with these conditions do not fit the traditional portrayal of an elderly, frail person. They may need care and support for many years and under the current funding arrangements, they would be unable to access any State help with the fees if they currently own their own home. Before I move on to discuss aspects of the scheme that will be subject to further consideration by the Assembly, I wanted to stress the inclusive nature of the scheme I am proposing. It is not just older members of society who need long-term care. There is a much smaller number of young adults whose condition, either from birth or as a child, means that they have high-level care needs. They will be covered by this scheme and they may particularly appreciate the element of choice inherent in the scheme. I wanted to move on and talk a little about eligibility for the new long-term benefit. Under my proposals, the principal funding stream for the new scheme will be from dedicated Social Security contributions. Quite rightly, people will want safeguards in place to ensure that the funds they are paying are directed to those who genuinely need long-term care. To access the long-term care benefit, individuals will have their care needs assessed by trained staff, social workers and medical professionals using a standard assessment tool. Its application will be monitored to ensure consistency. This placement tool, to give it its proper title, is already being used successfully for those who apply for assistance with their care fees through Income Support. To qualify for the benefit, individuals' care needs will have to be such that they require a high level of care. The benefit can then be used to cover the cost of care in a residential setting or to fund the equivalent level of care at home. I know that concerns have been expressed about so-called health tourists who might be tempted to move to the Island in the hope that they can claim the benefit immediately. To avoid this, I am proposing fairly stringent residency requirements to qualify for the benefit. There are 2 elements to the residency requirements: at least 10 years' continuous residency as an adult on the Island at some time and 12 months' residency immediately before claiming the benefit. Someone who has lived for 10 years continuously as an adult in the Island previously but who has left the Island would qualify for the long-term benefit after they had been back on the Island for a year. For people with 10 years or more continuous residency immediately before claiming, then the one-year waiting period is counted within the 10 years. Given the contributory nature of the benefit, most potential recipients will, through working or retirement, have contributed to the fund for a minimum of 10 years during the course of their lives. The residency requirements for the benefit will be determined by regulation so Members can amend my proposals as they see fit in due course. Another important step of the proposals that will ultimately be set out in regulation is the elements that should be included or, more properly, excluded when considering means tested assistance with the co-payment. The aspect of the current system that generates more complaints than any other relates to the predominant role played by means testing. Many of us do not wish to think about our future care needs, let alone how we will pay for them. Few realise that owning a home makes us responsible for the full costs of care. This is what in the U.K. was referred to recently as "Social Care's dirty little secret". In the Green Paper consultation, the concept of means testing was only supported by around a quarter of respondents. In contrast, over 60 per cent of respondents supported the long-term care benefit option with the risk attached to long-term care funding being spread across the population generally rather than just being borne solely by the individual requiring care. Under the current arrangements, homeowners are unable to access any financial support if they find themselves needing long-term care. This can come as quite a shock to families when they are confronted by the reality of having to meet care costs of up to £1,000 a week. I do not think that this is fair. Under my proposals, people will be required, as a condition of receiving the long-term care benefit, to contribute towards their fees. This will take the form of a co-payment. This limits the amount that the population at large has to pay for those needing care while making it much more manageable for the individual concerned. Part of this payment will relate to what is commonly termed the "hotel costs" of staying in residential care: the food and accommodation costs that the individual would have to meet wherever they were living. Whatever the level of care, residential or nursing, for example, the co-payment will be a single standard rate. This means that those people who, through no fault of their own, need extended periods of care will

not be disadvantaged. If Members approve the scheme, the amount of money that any individual will be required to contribute towards the fees will be much less than under the current arrangements and it is to this co-payment and the co-payment alone that the means tested assistance will apply. This means many people will be able to fund the co-payment from their existing resources, from their pensions or part of their savings, for example, and where this is the case, there will therefore be no need to take a charge on their main residence or any need to sell it. However, I understand that not everyone will be fortunate enough to be in this position. Therefore, I intend to protect the financial position of homeowners with little or no income or savings who find themselves needing care. In the financial assessment carried out for those seeking means tested assistance, I am proposing that the value of the main residence up to £750,000 is disregarded. This will mean that for the vast majority of homeowners, their most precious asset is taken out of funding considerations. Guernsey has successfully operated a similar exclusion since the introduction of its scheme in 2003. However, I have to stress to Members that I am not personally wedded to the figure of £750,000.

[17:15]

Indeed, it was the one issue in my White Paper on which I particularly invited comments, although the results were inconclusive. Ultimately, it will rightly be for Members to decide whether that figure should be higher, lower or included at all. A number of Members have already expressed very divergent views to me on what the level of the exclusion should be. I must say that I am firmly in favour of the principle that the family home is excluded from consideration for means testing. My approach means that people with modest homes but with few savings, who have worked hard all their lives to own their own home, will no longer face the prospect of losing it. We encourage people to save to buy their own home. My approach lets them keep it. Many who spend decades working hard to provide a home for themselves and their family will retain their most prized asset to pass on to their children. One of the virtues of excluding homes as far as possible from the means test is that it avoids any temptation to change the ownership of the asset, giving it to other members of the family and therefore putting it out of reach of the current arrangements. If one reflects for a moment, it does seem perhaps odd that on the one hand, as a community, we encourage our young people to join the housing ladder and to work hard throughout their lives to attain this goal and then on the other, towards the end of their lives, we effectively say: "Well done but you can now use the asset you have worked so hard for to fund your long-term care needs." The Council of Ministers' Strategic Plan states we will introduce schemes to encourage more home ownership. The Jersey Homebuy Scheme is an example of such an initiative to help Jersey families on to the housing ladder. The continuance as well of mortgage interest tax relief for marginal ratepayers also assists those of modest means to own their own home. Of course, I recognise that not everyone can be, or aspires to be, a homeowner and I want to make sure that non-homeowners are not disadvantaged under this scheme. Therefore, I am proposing that any asset or capital they have up to £100,000 in total should be disregarded. While it is perhaps not surprising that in the Green Paper consultation, two-thirds of homeowners were not prepared to use at least part of the value of their home to pay for care fees, it is noteworthy that nearly half of non-homeowners shared this view. Perhaps they were aspiring homeowners themselves. Overall, my proposals in this area will have the effect of removing the financial uncertainty and worry that many families currently face as a close family member moves into care. Often the realisation of the level of care fees only dawns on families when they themselves apply for assistance. My proposal will particularly help those with modest means who have worked hard to acquire the family home. I believe we have got to show courage to tackle this particular funding issue. The fact that I am proposing these changes at a time when we face many economic challenges shows just how important it is. I do not believe that we can delay. The ageing population will not wait for us and the time is right for an overhaul of long-term care, both in terms of funding and in terms of how it is delivered. Today, most people only discover the truth about the current system when they come into contact with it. It leaves too

many people frightened and confused and facing potentially ruinous bills. Coping with the emotional upheaval of discovering that you or a loved one needs care is bad enough. That is before you find out the potential negative financial implications that you may lose much of what you have worked so hard for throughout your life. My proposals address the unfairness of the current means tested arrangements. Those with only modest housing assets currently face punitive charges at the end of their lives. The thrifty are not rewarded under the current system and this, to me, is unfair. The system has to change. Sharing the costs across the community is the equitable thing to do. Fairness requires a greater and reliable public contribution, something we all need to take responsibility for. My proposals are fair in that all citizens, including pensioners, contribute towards the cost of care through their contributions. All those who are assessed as needing long-term care can be confident that it will be provided when needed and my plans are in line with the public mood for change as expressed in the Green Paper consultation. They also fit with ideas around the new models of care that focus on more flexible solutions, preventative interventions, the promotion of independence and choice and ultimately efforts to obtain greater value for money. I want to give people choice in how they are cared for and where that care is delivered. My proposals give effect to the wishes expressed by many to stay in their own home for as long as possible. To conclude, it is about treating older members of our community with dignity. It is about giving older people and their families peace of mind. It is about showing that we are a community that cares. I ask Members to support the principles of this new system as set out in the proposition. **[Approbation]**

The Greffier of the States (in the Chair):

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

5.1.1 Deputy D.J. De Sousa:

I welcome this legislation and it has been a long time coming. Members are well aware that much of my previous career, nearly 30 years, was working in care. One of the first cases that I dealt with when I was elected was an elderly lady whose second husband had to go into care and the first thing she was told was that she had to sign her house over to pay for this care. In the 21st century, this really cannot be right. Only today on the front of the *J.E.P.*, we have the case of a couple as well who have been together for 66 years and they are separated through no fault of their own because his wife had to go into care. I want Health and Social Security to know that even if I am not elected again, I will be lobbying for also in the future to have double care rooms in all our residential homes. I have spoken about this many times as well. We should not be separating couples that have been together all their lives. It cannot be right. Most people would not object to paying into a ring-fenced fund to pay for their elderly care, to protect their assets to go to their family members. I know I for one would not. I do know as well that there are people that would say that how can it be right because when this comes into law, there will be a certain day that it will happen and it will mean that certain members will be entitled to this but they have not paid in as long as some members. As the proposer said, we are a caring society and I am sure even our children will not object to funding the care of these elderly people that have put so much into society and made it the society that we have today. I know my children will not mind and I certainly will not and nor will my grandchildren and I hope all Members will support this. It is a way forward.

5.1.2 Senator B.E. Shenton:

I will be fairly brief because the Minister knows my concerns in this area so all I ask is that when he comes back to the Assembly with the detail, that he endeavours to make sure that the scheme is fair and equitable, that it does not unduly favour the baby boomer generation to the detriment of future generations and also that it be soundly financed because, at the moment, there is no detail with regard to the financing of the scheme and this is of great concern. I would ask that preferably when he comes back, in the papers, that the financing is reviewed not only by the Minister for

Treasury and Resources but also perhaps even by the C. and A.G. (Comptroller and Auditor General) and also the Treasurer of the States as well. So there are some genuine concerns on financing but there is so little detail at the moment that it is not really worth wasting the Assembly's time on it. It is a discussion for another day.

5.1.3 Connétable K.P. Vibert of St. Ouen:

I rise to congratulate the Minister on bringing forward this proposal but point out that there is really no credit on this and previous Assemblies that they have left it until today to bring this forward. **[Approbation]** I recall when I joined the Chamber in 1994 that this topic was already on the agenda, that the dangers that were facing us were already there and yet here we are, 18 years later, bringing it to the Assembly. During my time as Connétable, this has been the one complaint which has been predominantly put before me by family members who were faced with having to pay for the care of an elderly relative. Most of the people that I met in this regard found it a very traumatic and depressing situation that the family home would have to be sold in order to pay for the care. Their complaint was that most of these families, as Deputy Tadier pointed out in a previous debate, were families who had predominantly been self-employed. They had worked all their lives. They had paid all their dues across their lives and had claimed nothing from Government during that time. They had worked that hard that they had been able to save a bit of money and some buy their own home, others maintain and upkeep their own home and yet, when it came to old age, they were treated differently to other people and this was something which really hurt them. I think that here we have a situation where maybe in the future, the family home will be preserved, will be kept for future generations, and the people who are in care will not be faced with what is really for them a very serious problem, that they are not able to pass on to their children anything to remember them by. Yes, I accept what Senator Shenton has just said, that we need a lot more detail, but today this is the principle that we need to go forward on and I recommend it to the Assembly.

5.1.4 Deputy K.C. Lewis:

It has been my sad duty to assist several senior citizens who have had to go into care and I know many who live in fear that, in later life, one of the partners may have to go into care and the family home lost. In my nearly 6 years in this Assembly, in my opinion, this would be one of the most important pieces of lawmaking to come before us and I sincerely congratulate the Minister for bringing it.

5.1.5 Senator A. Breckon:

I have been trying to wind-up the Minister for Social Security now for probably more years than I care to remember and that is because, as the Constable of St. Ouen has just touched on, when this debate started, I was part of the booming economy. Now I am part of the elderly problem **[Laughter]** so I have got a vested interest in that because I want something in place because before too long I might need something, so I should declare that interest. The other thing is, and the Constable of St. Ouen will know, probably about 3 months ago, there was a case that we were both aware of, exactly the circumstances he was talking about and, sadly I have to tell the House, about every 3 weeks, I get somebody who contacts me and they have some hard choices to make because of a family situation which involves an elderly member of the family, the partner or whatever. I have taken part in a Scrutiny Review with others and we had some information put before us which needed some attention and this goes somewhere towards addressing that. The other thing is the Connétables will remember one of the reasons why the welfare system has now become centralised is because - and I know this from the Parish of St. Saviour- I must say the estimates for the Parish rates were fairly accurate until the Parish had to pick up the cost of funding elderly care and it was a burden that the Parishes could not stand because it was unforeseen. In one year, I remember in St. Saviour there were 6 people who needed support and elderly care and it was one of those rare occurrences where the estimates for the rates were out of kilter and I must say there was an

excellent administration across the Parishes in St. Saviour at the time. They do not get it wrong very often but they did in this case because it was unforeseen.

[17:30]

I did bring to the House P.177 in 2010 because I was getting frustrated again, as I say, because the need is looming as they say, that nothing was happening and it is a long-term policy but it has been a long time coming and I want to touch in a minute or 2 about the system in Guernsey. I proposed 1 per cent contributions from employees and employers and the reason I did that is I feel now where there are less occupational pension schemes and if somebody is working hard for somebody for 10, 20, 30, 40 years, then perhaps the employer could put something aside in a ring-fenced fund and that is the important thing. People are not keen on contributing just to general taxes and putting money in the pot so we can put bends in Victoria Avenue or straighten them out next year or whatever it is but if it is for something, it is a tangible benefit, as is proven by the work that Senator Le Sueur did when he was President of Social Security, people said then: "We will pay extra to protect our pensions" and they are saying the same thing, as the Minister said, about elderly care. The other thing, I mentioned the "G" word. Guernsey has had a long-term care system in place since 2002. It was approved by the States of Guernsey on 1st March 2001 so we are well over 10 years behind them and, as part of the Scrutiny Review, we visited them and everybody over 15 years of age pays and the reason for that is because it is a care scheme, if somebody has a tragic accident or something like that, then this system will look after that as well. So it is not just elderly care; it provides for those circumstances as well, based on the needs assessment. At the time when I brought that proposition, I thought the situation was unsatisfactory and it was not clear what was going to happen and when so that was my reason for doing that. The other thing I will just again touch on the Guernsey thing. It is not the smartest thing to say but they got this right a long, long time ago, as the Constable of St. Ouen mentioned. Perhaps we dragged our feet on this. The other thing I expressed concerns about is where are Planning, Housing and Health and Social Services because it is not just about providing people with money. They cannot live in their own homes unless there is a support system around them and we cannot give all this to Family Nursing and say: "Get on with it." There needs to be something a bit more positive than that. In the Scrutiny Report, we did highlight ... this was the one the Minister mentioned from 2nd December 2008, that is when it was presented to this House, and this was some of the contents. It said all those over 65 paid the non-employment rate and that works out at about £896 per year. Now, when you say that, it sounds a lot of money but it will not buy one week in most of the residential homes, £896, and, of course, these figures go back to 2008. But Guernsey - and I do not want to tempt the Minister for Treasury and Resources in here - but they also have a compulsory health care contribution, which is now 1.2 per cent of earnings. So in Guernsey, perhaps, they are more cultured to used to paying for some of the things that we have taken for granted. The other thing with the Guernsey scheme, when the scheme started, there was a 3-month initial period when contributions were levied but no benefits were paid and that was from January until April 2003 and then benefits became payable. Also, the States paid a contribution equivalent to 12 per cent of the other contributions and, at the time, the fund had an income of £14 million a year and it was paying out £11 million and the accumulated surplus when we looked at it, they had a surplus of I think it was £18 million at the time but they were also reviewing the system. What happened, as a result of this, it encouraged the growth in private provision of long-term care, which resulted in the increased uptake, and on the other hand, the numbers in the public sector of care continued to drop. Now, that is important but it must not be the reason for doing this so we must be doing this for the right reasons. The other thing is a Needs Assessment Panel was set up, which we are suggesting here, that did the assessment about what people's needs were. The other thing that they had which is very important and we have not got, they talked about supported housing and they had a Director for Older People's Housing who was independent of Planning and Housing and Health and everybody else. They had 8 sites that they used as land banks and what they said is: "What do we need for elderly people and

this is what we will create.” It was not as we are doing, the old over-55s developer-led. They did not do that at all. The other thing - Deputy Martin is not in the House but will remember, and I think Deputy Le Hérisser went to see it - was a property called Mendip House and it was 25 storeys. It is a converted tower block in Edmonton Green administered by the Metropolitan Housing Trust and it was transformed into sheltered housing for the over-55s and fully refurbished in 2004. It contains 184 one and 2-bedroom apartments spread over 25 floors with safety and security offered by 24-hour concierge service, C.C.T.V. (close circuit television) coverage in all public areas, including lifts and a pull-cord alarm system in every room. The scheme has proved highly popular owing to comfortable and spacious accommodation, regular social activities in community rooms and good communication with on-site managers who contact all residents on a daily basis to ensure that they are well, assist them with filling in forms and making sure they get all the benefits to which they are entitled and maintain a friendly atmosphere while ensuring the building is kept immaculately clean. The scheme provided an excellent example of what can be achieved with an older high rise building at one time considered - and I am looking at Senator Le Main here - for demolition, which was already talked about, some of the high rise in and around the town, and has now got a waiting list for residents. That is why Deputy Martin was involved with this as well and we knew what the potential was for Ann Court. There is a tremendous potential there; you are 2 minutes from the shops, you are on the edge of town. When we talked about creating, which is part of an elderly care scheme, about a high rise development like this - people think well, high rise is not the place - but the Edmonton one, I think they took out 1½ floors for community facilities and there is a waiting list. The reason I have mentioned these things is that this is not just a social security payment scheme, and again I am looking at the Constable of Trinity; I have been up there, there is an excellent scheme in Trinity which is really an elderly housing scheme and I do not think there is anybody in there who is anywhere near 55. I do not want to go on for too long, otherwise I will need the elderly care by 6.00 p.m. I think but in the ...

The Greffier of the States (in the Chair):

Just try and keep it to the principles involved, Senator.

Senator A. Breckon:

Yes. In the Minister’s report it says this; it talks about: “The long-term care benefit will apply to stays in approved care homes and will also fund approved care packages covering high level care provided at home.” Somebody needs to think about what that is going to be because some would say if you have some money somebody needs to do that and it is only for on the Island. But the other thing which sent an alarm bell ringing with me, it says: “The initial contribution rate of around 1.5 per cent will be fixed for 5 years. In addition, current States funding of up to £30 million a year will be paid into the fund.” When it says “up to £30 million” is the Minister for Treasury and Resources going to come and say: “Well, people are funding this themselves so we are going to substitute some of our funding for other people’s.” The other thing that concerned me is I think with any fund the pay-as-you-go-element does concern me. I think there needs to be a buffer that needs to be built up in some way or other. I think the Minister might like to reconsider that because it concerns me that instead of a fund and then people can have a draw on it fairly quickly because okay, the money is going in, but the buffer, as is happening in other areas of Social Security, has proved worthwhile. As Members will probably gather that in general terms I welcome this. It has been a long time coming and I hope it will receive the unanimous vote of the House because it is needed and it is something that does concern many elderly people and they are not aware of exactly what the system is, but then when they run into this it is very upsetting for many people and their families. We need to do this. It is a sensible thing to do and it is proven people will pay for something like this where it is ring-fenced and there is a benefit back. They are not quite signed-up to just a general taxation thing but this is welcome and I congratulate the Minister for finally getting there. Thank you.

5.1.6 Senator S.C. Ferguson:

It does occur to me that if employers employed people longer it will keep their brains going and that will prevent people needing care. I am just speaking for myself as I find it. In actual fact I spent 6 years as one of the unpaid carers and I would point out to the Minister for both Health and Social Services that perhaps Family Nursing and Home Care services need to be brought into the 21st century. Senator Breckon mentioned Edmonton and we have also heard about the Rowntree Foundation and their set-up, which I think is smashing. I saw the 2 set-ups in Yorkshire and they are great. I would congratulate the Minister and I would thank he and his Rottweiler, I am sorry, his Assistant Minister, and his senior staff for the explanations they gave me a couple of weeks ago. Senator Breckon mentions the pay-as-you-go-scheme which effectively, I think, the whole set-up is based on the current expenditure and pay-as-you-go and this also, like Senator Breckon and Senator Shenton, concerns me. I have mentioned to the Minister that I would like to see an actuarial forecast which would give greater confidence in the fee percentages that are going to be charged. The 1.5 per cent is fine now but, as Senator Shenton says, effectively he is going to be paid for by my son, which is unsatisfactory for both of them. I would encourage the Minister to bring more of the financial details, the calculations and the actuarial projections back to the States but as an in principle law to get this thing off the ground and moving. I am all in favour and I support it.

The Greffier of the States (in the Chair):

Can I just mention I have 7 Members waiting to speak on the principles? I know Members are generally very supportive when they speak and I do hope they will ... **[Interruption]** 8 and possibly 9 I saw. Deputy Le Claire.

Deputy P.V.F. Le Claire:

Sir, I do not know if that was ...

The Greffier of the States (in the Chair):

It was certainly not ... it was coincidental, Deputy.

5.1.7 Deputy P.V.F. Le Claire:

I say, I say, I say, what is the secret of great comedy? Timing. Why should we apologise when again, we are faced, just before the break in Assembly, in a 3-year term that we have such significant propositions coming before us and we are being chastised for speaking at all? I think it is absolutely deplorable. It is going to be part of the makeup of the determination as to how unsupportable we are in the elections, while really what we should be focusing on is the fact that these departments and these Ministries and practically the same politicians that are still in charge, today as they were then, have failed to bring these things through in anywhere near the appropriate time that was needed. It is no criticism of this Minister but certainly of his Ministry and his department that this has taken so long. It has been in Guernsey, we have heard, since 2001 it has been approved. I think it is absolutely deplorable.

[17:45]

I have gone through hoops this afternoon trying to lodge a proposition to take 25 per cent of any fine levied on the gambling law and putting it into the Association of Jersey Charities because my manpower and financial implications were not significantly robust enough to lodge the proposition. I have been told I have to go away and find out how much that is going to be and how much they are going to lose. How long is a piece of string? How long do we know how many fines are? But certainly the Ministry has employees and actuarial experts that could have worked up a better finance and manpower implication statement than we have seen here. It is one rule for us and it is another for them. Right, now that we have addressed the issue of me hurrying up I would agree with Senator Breckon 100 per cent. I would like to ask him, what are the costs for care in Guernsey and the Isle of Man? I would like to ask the Minister to tell us in relation to what are the costs of

private care homes? Do we have any information about that? Particularly in relation to speaking in regards to the principle of this law I 100 per cent support it; it is absolutely the right thing to do but I do completely disagree, and the Minister said the results were not conclusive, that a disregard for a home up to £750,000 is acceptable. I think it is absolutely deplorable. While it is absolutely right that homes should not be taken away from people or used for them to pay for their care, we should have had a system in place when those people were working 10 years ago that could have looked after them in their retirement. What did those homes cost then when they purchased them? How much of a disregard did they have on mortgage interest payments over those years? Are those residences going to be used or let out? Are they going to retrieve income from those residences when that £750,000 may potentially be disregarded? I certainly would agree with the Minister that when he comes back - and this is going to be decided in 2012 - more thought needs to be given about the equality. I spoke in the last debate about not being in favour of arguments for the poor or the rich but for all and I certainly continue that in this speech that I am making today. I think it is not right that we should say: "You can disregard a family residence up to £750,000 and if you cannot get it together for the first 3 months you will be assisted; whereas if you are poor and you do not have a home, because no one provided one that you could afford for all of your life, you can have a disregard up to £100,000". No mention of the 3 months there. The average family home in Jersey is £443,000 but the Minister is not getting this so I will repeat that. I am saying that the disregard, as mentioned in his report, for £750,000 that he is going to consider during 2012 is too high, in my opinion. I do not believe it is the right ceiling. I am not even sure if this is the right way of doing things, to be honest. I do believe that people should not be penalised at the end of their life to pay for care that may be astronomically high because of the modern way of doing things. There may be better ways of doing this so they can be kept in their homes and treated in their homes in the way that was spoken about by Senator Breckon in the Mendip example. But the disregard in terms of the £25,000 that they can also have in capital and their £750,000 and the 3-month assistance while they are going, I think if there is any consultation going on I would say the people I am speaking to that do not have the money for a £443,000 home, which is the average price, because that is too expensive for them on all the reports you have been seeing. I have been saying this for weeks and months now. I do not know if it is getting through; certainly it is in States reports. No home is affordable on any average income in Jersey and that means no home. How is it £750,000 appears there? Senator Shenton said he hopes that when it comes back there is better work, more work, more financial information and it is not going to cater just for the baby-boomers. I am sorry to say, while I do agree with the principle, I could never agree with that amount of money being a disregard and some thoughts need to go into it, as I have said. If the house is being rented out while these people are in the care then the income from that needs to be considered; I do not know if it has been. That is it.

5.1.8 Connétable J. Gallichan of St. Mary:

I am quite glad to follow the last speaker because we seem to have very passionate views but in completely different ways. Like the Constable of St. Ouen I have great experience through my work in the Parish, first as secretary and now as Connétable, of dealing with people who are in this situation. I understand, more importantly I think, that for most people in the Island their home is not seen as an asset for cash terms. Their home is where they live. That is why, for as long as I am in the Assembly, I will be fighting for the States to keep their involvement in setting the disregard and I am particularly grateful for the Minister for bringing his own amendment which will ensure that happens because I was concerned previously that that could be set in by Order and not by Regulation. I certainly do not believe that for people who are in a home that any amount of cash value that you attach to it should jeopardise their home because that is what it is; most people do not look at it as a cash figure. Some people have never transacted their home. They are in a home that their parents were in, that their grandparents were in and for them to be dealt with on a purely cash level, quite the opposite to Deputy Le Claire, I think we need to disregard the home, as long as it is a home. I know the Minister will be dealing with things like income from rental out because I

am talking about people who are still in that home. I would like to say that with other Members of this Assembly, Members of the Assemblée Parlementaire, we look regularly at French developments and one of the things that I looked at in the last year was the fact that there is an incredibly disproportionate number of centenarians in France. They did a study to find out what it was that enabled their people to live that much longer and with good faculties and a good quality of life. I am sorry to say that it is not *le bon vas*; it is not that good living. It is the simple fact that the French authorities for a long time have recognised that keeping people in their homes and giving the assistance in their homes for them to carry on there gives them the quality of life and gives them the ability and the desire and the wherewithal to live longer and I think that is incredibly important. The Minister has got it right here and he has left us the opportunity to set that disregard, and I am sure there will be a heated debate. Of course the time for that debate is in the future; it is not happening now but it will be set by regulation. I am extremely grateful that the Minister has taken that on board and I thank him for that amendment that will come. I would just like to know - I am not quite sure if this is the right place to raise it but I will raise it very quickly and the Minister can deal with it whenever he thinks it is appropriate - I know of a case, and I am sure there are lots of them that we all know about, where a person was widowed, has had to go into care through illness and that happened a number of years ago. They had a home and they had a few small assets; little bits of land here and there around their home. Over the years, first of all the home was rented out to pay for care, little bits were sold off. Eventually it got to the stage when the home has been sold off and I know that they have only a few months, less than years, of finance left to pay for their care. This person has been 100 per cent self-funding in their care up to now. I know the Minister intends this scheme to come in, I think it is 2013, and I would just like some comment from him as to what will happen if there are people who are caught running out of funds before they are eligible for funds from here, how they will be dealt with? Having said that, congratulations to the Minister. It is high time this was tackled. The Minister has done a lot of work. The consultation has happened and I know the Constables were involved; we were all talked to about it. Congratulations, Minister, for bringing this. It is time but it is really good that it is happening now.

The Greffier of the States (in the Chair):

Chairman, seeing as you are on your feet I note that it is 5.55 p.m. and I do not know how Members wish to proceed; we are clearly not going to finish this item this evening. If you wish to address the issue of how the Assembly is getting on or not getting on or ...

The Connétable of St. Mary:

Yes, Sir. Yesterday I think I said the patient's prognosis was dire. I think today, Sir, once we have finished this and we are only on the principles of course, we will almost be halfway through the items of business. It is looking pretty dire again, Sir. I think we have another 9 or 10 pieces to do, including a couple of very large ones with amendments like the Sunday Trading Regulations. I would just urge Members; I am sure there is no appetite for Members to sit at the weekend or to come back in the recess next week. Can I just suggest that they observe very carefully, please, Standing Orders with regard to repetition? To know that we do not always need to speak and please when they do speak because I know that people feel that these things are incredibly important, and they are, but please be concise and to the point. Sir, that is all I can suggest today.

Deputy P.V.F. Le Claire:

Sir, could I propose that Draft Shops be taken off the Order Paper and put back until after the break because I do not think that is necessary to be debated in this period. I would like to propose that it is formally taken off, Sir.

The Greffier of the States (in the Chair):

Yes, you are free to propose that. Is that proposition seconded? **[Seconded]** Assistant Minister, did you have any comment?

Connétable L. Norman of St. Clement:

Sir, in fact it is quite important that it is taken at this session I believe because once it comes fully into force at the end of the year and both retailers and the Parish Halls will have a considerable amount of work to do to prepare for the new regime and I think it is only fair to the retailers, in particular, that they have time to do that. It could be done in September; it would mean a big rush for the retailers and indeed for the Parish Halls. Administratively it would be much better if it were done at this session. In fact I was going to ask because it depends on what the States decide, whether they want to take it off the agenda but if they do not take it off the agenda I was going to ask that it be taken after the item we are on now because I have to travel to the United Kingdom on Friday lunchtime; I would like to have it done before that, Sir.

The Greffier of the States (in the Chair):

Let us take one thing at a time. Deputy Le Claire has proposed that the item be deferred until September ...

Senator P.F.C. Ozouf:

Sir, just a point, the additional point that the Assistant Minister might have made is that currently we have a law which is causing Constables to turn a blind eye over issues and this issue is before the Assembly. I think it is incumbent upon us to solve the issue to not allow illegality.

The Greffier of the States (in the Chair):

The appel is called for. Deputy Le Claire has proposed that the P.95 and the associated point that P.96 should be deferred until September. If you wish to defer them you vote pour; if you wish to keep them on the agenda this week you vote contre and the Greffier will open the voting.

POUR: 10

Senator A. Breckon

Senator F. du H. Le Gresley
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy J.B. Fox (H)
Deputy G.P. Southern (H)
Deputy of Grouville
Deputy P.V.F. Le Claire (H)
Deputy of St. John
Deputy A.E. Jeune (B)

CONTRE: 24

Senator T.A. Le Sueur

Senator P.F.C. Ozouf
Senator S.C. Ferguson
Senator B.I. Le Marquand
Connétable of St. Ouen
Connétable of St. Helier
Connétable of Trinity
Connétable of St. Brelade
Connétable of St. Saviour
Connétable of St. Clement
Connétable of St. Peter
Connétable of St. Mary
Deputy R.G. Le Hérisier (S)
Deputy J.A. Hilton (H)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy K.C. Lewis (S)
Deputy T.M. Pitman (H)
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)

ABSTAIN: 1

Connétable of St. Lawrence

The Greffier of the States (in the Chair):

Assistant Minister, do you wish to ask for it ...?

The Connétable of St. Clement:

Yes, could I ask for it to be taken as the next item after the item that we are debating now for a number of reasons: firstly, it will give the Minister for Social Security a short break and secondly, as I said, I am going out of the Island on States business Friday lunchtime and so it is rather important that I am here to complete the item. I am sure it will not take all that long but ... **[Laughter]** It should not take all that long; it is quite simple, people can make their own minds up on the various articles but I will just ask that it be taken as the next item. It is not going to add to the agenda because we have already decided we are going to carry on with it.

The Greffier of the States (in the Chair):

Is that proposition seconded? **[Seconded]** Those Members in favour of taking this as the next item after Long-Term Care, kindly show. Against. It appears to be agreed.

The Connétable of St. Clement:

I am grateful, Sir.

Senator P.F.C. Ozouf:

Sir, may I just deal with the issue, for the avoidance of any doubt, that we will not sit next week and can we make an express decision that we will not sit next week because the longstanding issue of this Assembly has been that we would not sit after the summer break and if there is any uncertainty I propose that we continue to sit for as long as necessary. That may mean a longer sitting on Friday. It may mean that we may be here past 6.00 p.m. but for the avoidance of doubt we will not sit next week or on Saturday.

The Greffier of the States (in the Chair):

That would mean, Senator, as you say, that if the agenda was not completed some items may need to be deferred until September but that proposition is put; is it seconded? **[Seconded]** Those Members in favour, kindly show. Any against. It appears to be agreed and there were several inquiries about next week so it does put the matter beyond doubt. It is 6.00 p.m.

Deputy R.G. Le Hérissier:

Can I propose the adjournment, Sir?

The Greffier of the States (in the Chair):

Yes. The Assembly will adjourn and reconvene at 9.00 a.m. tomorrow morning.

ADJOURNMENT

[18:00]