

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 11th DECEMBER 2013

<b>PUBLIC BUSINESS - resumption</b> .....	<b>5</b>
<b>1. Long-Term Care Scheme (P.99/2013) - resumption</b> .....	<b>5</b>
1.1 Deputy J.A. Hilton of St. Helier: .....	5
1.1.1 Deputy R.G. Le Hérisssier of St. Saviour: .....	7
1.1.2 Deputy S.G. Luce of St. Martin: .....	9
1.1.3 Connétable P.J. Rondel of St. John: .....	10
1.1.4 Deputy E.J. Noel of St. Lawrence: .....	10
1.1.5 Connétable J.L.S. of Gallichan of Trinity: .....	11
1.1.6 Deputy R.G. Bryans of St. Helier: .....	12
1.1.7 Deputy J.H. Young of St. Brelade: .....	13
1.1.8 Deputy A.E. Pryke of Trinity: .....	15
1.1.9 Senator S.C. Ferguson: .....	16
1.1.10 Deputy G.P. Southern of St. Helier: .....	16
1.1.11 The Very Reverend R.F. Key, B.A., The Dean of Jersey: .....	18
1.1.12 Deputy S. Power of St. Brelade: .....	19
1.1.13 Senator A. Breckon: .....	19
1.1.14 Deputy T.A. Vallois of St. Saviour: .....	22
1.1.15 Deputy J.G. Reed of St. Ouen: .....	23
1.1.16 Deputy J.M. Maçon of St. Saviour: .....	24
1.1.17 Deputy M. Tadier of St. Brelade: .....	24
1.1.18 Deputy R.C. Duhamel of St. Saviour: .....	25
1.1.19 Deputy M.R. Higgins of St. Helier: .....	26
1.1.20 Deputy S. Pinel of St. Clement: .....	26
1.1.21 Senator L.J. Farnham: .....	27
1.1.22 Senator I.J. Gorst: .....	27
1.1.23 Senator F. du H. Le Gresley: .....	28
<b>2. Draft Social Security (Amendment of Law No. 6) (Jersey) Regulations 201- (P.138/2013)</b> .....	<b>34</b>
2.1 Senator F. du H. Le Gresley (The Minister for Social Security): .....	34
2.1.1 Deputy J.H. Young: .....	35
2.1.2 Deputy G.C.L. Baudains: .....	35
2.1.3 Senator F. du H. Le Gresley: .....	35
2.2 Senator F. du H. Le Gresley: .....	37
2.2.1 Deputy M. Tadier: .....	37
2.2.2 Deputy J.H. Young: .....	38
2.2.3 Senator F. du H. Le Gresley: .....	38
2.3 Senator F. du H. Le Gresley: .....	45
2.3.1 The Connétable of St. John: .....	45
2.3.2 Deputy J.H. Young: .....	45
2.3.3 Senator F. du H. Le Gresley: .....	45

<b>LUNCHEON ADJOURNMENT PROPOSED</b> .....	<b>46</b>
<b>LUNCHEON ADJOURNMENT</b> .....	<b>46</b>
<b>3. Draft Social Security (Amendment No. 21) (Jersey) Law 201- (P.139/2013)</b> .....	<b>46</b>
3.1 Senator F. du H. Le Gresley (The Minister for Social Security): .....	47
3.2 Senator F. du H. Le Gresley:.....	47
3.2.1 Deputy J.H. Young:.....	47
3.2.2 Senator F. du H. Le Gresley:.....	47
<b>4. Draft Long-Term Care (States Contribution) (Jersey) Regulations 201- (P.140/2013)</b> .....	<b>48</b>
4.1 Senator F. du H. Le Gresley (The Minister for Social Security): .....	49
4.1.1 Deputy J.H. Young:.....	49
4.1.2 The Deputy of St. Ouen:.....	50
4.1.3 Senator A. Breckon: .....	50
4.1.4 Deputy T.A. Vallois: .....	50
4.1.5 Senator F. du H. Le Gresley:.....	50
4.2 Senator F. du H. Le Gresley:.....	51
<b>5. Draft Long-Term Care (Health and Social Services Charges) (Jersey) Law 201- (P.141/2013)</b> .....	<b>53</b>
5.1 Deputy A.E. Pryke (The Minister for Health and Social Services): .....	53
5.1.1 The Deputy of St. Ouen:.....	54
5.1.2 Deputy J.H. Young:.....	54
5.1.3 Deputy A.E. Pryke:.....	55
5.2 Deputy A.E. Pryke:.....	55
5.2.1 Deputy J.H. Young:.....	55
5.2.2 The Deputy of St. Ouen:.....	56
5.2.3 Deputy M. Tadier: .....	56
5.2.4 Deputy A.E. Pryke:.....	56
5.3 Deputy A.E. Pryke.....	57
5.3.1 Senator F. du H. Le Gresley:.....	57
5.3.2 Deputy J.H. Young:.....	57
<b>6. Draft Long-Term Care (Residency Conditions) (Jersey) Regulations 201- (P.136/2013)</b> .....	<b>57</b>
6.1 Senator F. du H. Le Gresley (The Minister for Social Security): .....	58
6.1.1 Deputy J.A. Hilton:.....	58
6.1.2 Deputy J.H. Young:.....	59
6.1.3 Deputy M. Tadier: .....	59
6.1.4 The Connétable of St. John:.....	59
6.1.5 Deputy J.A. Martin: .....	60
6.1.6 Senator F. du H. Le Gresley:.....	60
6.2 Senator F. du H. Le Gresley:.....	62
6.2.1 Deputy M. Tadier: .....	62
6.2.2 Deputy M.R. Higgins:.....	64
6.2.3 Senator B.I. Le Marquand:.....	64
6.2.4 Deputy G.C.L. Baudains:.....	65
6.2.5 Senator F. du H. Le Gresley:.....	65
<b>7. Draft Social Security (Hypothecs) (Jersey) Law 201- (P.137/2013)</b> .....	<b>70</b>
7.1 Senator F. du H. Le Gresley (The Minister for Social Security): .....	70
7.1.1 Deputy G.C.L. Baudains:.....	71

7.1.2 Deputy M.R. Higgins:.....	71
7.1.3 Deputy J.H. Young:.....	71
7.1.4 Deputy S. Power:.....	71
7.1.5 The Deputy of St. Ouen:.....	71
7.1.6 Senator S.C. Ferguson:.....	72
7.1.7 Deputy M. Tadier:.....	72
7.1.8 Senator B.I. Le Marquand:.....	72
Mr. H. Sharp Q.C., H.M. Solicitor General:.....	73
7.1.9 Deputy J.P.G. Baker of St. Helier:.....	73
Deputy M. Tadier:.....	73
Deputy J.H. Young:.....	73
7.1.10 Senator F. du H. Le Gresley:.....	73
7.2 Senator F. du H. Le Gresley:.....	75
7.2.1 Deputy G.C.L. Baudains:.....	75
7.2.2 Deputy J.H. Young:.....	76
7.2.3 Senator A. Breckon:.....	76
7.2.4 Senator F. du H. Le Gresley:.....	76
H.M. Solicitor General:.....	76
Deputy J.A. Martin:.....	77
Deputy M.R. Higgins:.....	77
7.3 Senator F. du H. Le Gresley:.....	79
7.3.1 Deputy J.H. Young:.....	79
7.3.2 Senator F. du H. Le Gresley:.....	79
<b>8. Draft Long-Term Care (Jersey) Law 2012 Appointed Day Act 201- (P.142/2013).....</b>	<b>80</b>
8.1 Senator F. du H. Le Gresley (The Minister for Social Security):.....	80
8.1.1 Senator I.J. Gorst:.....	80
8.1.2 Senator F. du H. Le Gresley:.....	80
<b>9. Draft Public Finances (Amendment of Law No. 1) (Jersey) Regulations 201- (P.133/2013).....</b>	<b>81</b>
9.1 Deputy E.J. Noel (Assistant Minister for Treasury and Resources - rapporteur):.....	81
9.1.1 Deputy M.R. Higgins:.....	82
9.1.2 Deputy R.G. Le Hérisier:.....	82
9.1.3 Deputy T.A. Vallois:.....	83
9.1.4 Senator L.J. Farnham:.....	83
9.1.5 Senator S.C. Ferguson:.....	83
9.1.6 Deputy J.H. Young:.....	83
9.1.7 The Connétable of St. John:.....	83
9.1.8 Deputy A.K.F. Green of St. Helier:.....	83
9.1.9 Deputy G.P. Southern:.....	84
9.1.10 The Deputy of St. Ouen:.....	84
9.1.11 The Deputy of St. John:.....	84
9.1.12 The Deputy of St. Martin:.....	84
9.1.13 Senator I.J. Gorst:.....	84
9.1.14 Deputy T.M. Pitman:.....	85
9.1.15 Deputy M. Tadier:.....	86
9.1.16 Deputy E.J. Noel:.....	87
Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):.....	88
<b>10. Ratification of the Agreement between the Government of Jersey and the Swiss Federal Council for the Exchange of Information on Tax Matters (P.134/2013).....</b>	<b>89</b>

10.1	Senator P.M. Bailhache (The Minister for External Relations):	89
10.1.1	Deputy R.G. Le Hérisier:	89
10.1.2	Senator P.M. Bailhache:	90
<b>11.</b>	<b>Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 8) (Jersey) Regulations 201- (P.143/2013)</b>	<b>90</b>
11.1	Senator P.M. Bailhache (The Minister for External Relations):	90
<b>12.</b>	<b>Draft Wills and Successions (Amendment No. 2) (Jersey) Law 2013 (Appointed Day) Act 201- (P.146/2013)</b>	<b>91</b>
12.1	Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):	91
12.1.1	Deputy J.H. Young:	91
12.1.2	Senator P.M. Bailhache:	91
	<b>ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS</b>	<b>92</b>
13.	Deputy J.M. Maçon (Chairman, Privileges and Procedures Committee):	92
	<b>CHRISTMAS GREETINGS</b>	<b>93</b>
	Senator P.F. Routier:	93
	Connétable A.S. Crowcroft of St. Helier:	94
	Deputy R.C. Duhamel:	95
	The Deputy Bailiff:	97
	<b>ADJOURNMENT</b>	<b>98</b>

[9:30]

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

**PUBLIC BUSINESS - resumption**

**1. Long-Term Care Scheme (P.99/2013) - resumption**

**The Deputy Bailiff:**

Very well, we now resume debate on P.99, the Long-Term Care Scheme and I call on Deputy Hilton to speak.

**1.1 Deputy J.A. Hilton of St. Helier:**

The Health, Housing and Social Security Scrutiny Panel started their piece of work during the last week of August when the proposition was lodged by the Minister for Social Security. The timeline has been tight and the panel made a decision early on to engage an expert adviser, Dr. Susan Harkness, to help us look at the proposals, which has proved to be a very detailed complex piece of work. Dr. Harkness undertook a desktop study to assist with covering the terms of reference for the review and her report enabled the panel to draft its final report. Dr. Harkness was also appointed to provide an analysis of the regulations and legislation surrounding long-term care and Members will be able to find her paper appended to the panel's comments. I would like to mention that the Long-Term Care Scheme, which has been undertaken by the Social Security Department was, in their own words, as a result of extensive research and modelling undertaken during the last 2 years to develop the details of the long-term care contribution and benefit scheme that is sustainable in the long-term. I would like to take this opportunity to thank our chair, the Deputy of St. Peter, my panel member, the Deputy of St. Ouen, and also to recognise the work that the past members did on the Scrutiny Panel. Also to thank our Scrutiny officers for working so ably to tight deadlines and also the Social Security Department for always being available at short notice to brief the panel and answer the innumerable questions which always flowed during briefings. The panel met with the Minister for Treasury and Resources and received written submissions from Jersey Finance, Citizens Advice Bureau, Institute of Directors and members of the public for which we are grateful. I would like to bring to Members' attention a number of key points made in our report and I hope this will help inform Members as we move further into the debate. There is no doubt that the demand for long-term care and the cost of its provision will rise substantially in the coming decades. There are compelling reasons for States intervention and, as the demand rises, the need to address the issue is becoming increasingly pressing. Estimates in the 2011 proposal showed if we were to do nothing to reform long-term care provision, the cost of long-term care to the States would double, reaching £60 million in real terms by 2026. The cost of care is predicted to more than triple over the next 30 years with cost projections suggesting that by 2044 long-term care will cost around £186 million at today's prices. Looking at population projections and, in particular, the share predicted to be over age 80 is an important input into modelling costs. The number of residents that are over the age of 80 is expected to treble over a 30-year period. This trebling of the elderly population is close to the estimated growth in the cost of long-term care provision, which is also estimated to treble. The ageing population is predicted to lead to increased pressure on healthcare services and spending on pensions which suggest that the taxpayer contributions will rise significantly to fund these areas in future. Seventy per cent of the population supported funding of long-term care by compulsory contributions but it is important to note that opinions on taxation are at odds with this as there is little support for increased levels of taxation. The scheme proposes that homes worth up to £394,000, together with assets to £25,000, would be disregarded for means-testing, which is not limited to homeowners. Therefore, both homeowners and non-homeowners are on the same level of asset disregard. Property bonds were introduced in 2009 and currently no interest is charged by the Social Security Department. Under the scheme interest will be charged at the Bank

of England base rate plus half a per cent. The scheme proposes a cap of £50,000 which provides protection for individuals against the very high levels of costs that affect one in 10 over-65s based on U.K. figures by the Dilnot Commission. The Dilnot Commission's proposal for the cap in the U.K. was £35,000 although the Commission noted that values within the range of £25,000 and £50,000 were appropriate. A cap of over £50,000 would do little to protect those on lower incomes or with less wealth. Therefore, on the grounds of equity, a £50,000 cap in Jersey seems to be appropriate. However, the scheme does not just benefit those incurring these costs but rather acts as an insurance against such costs for the wider community thus removing financial uncertainty as people move into care. Couples who both require long-term care will have a care cost cap set at £75,000. The scheme assumes that income will be assessed on the basis of an individual and their partner's incomes. It is unclear, however, how much income a partner will be allowed to retain when their partner enters long-term care. We recommend that prior to the implementation of the scheme this should be made clear. All individuals in receipt of residential long-term care will pay accommodation costs in the form of a co-payment. The proposed value of the co-payment is currently £300. There is no co-payment payable by those receiving care in their own home which results in a saving of £300 per week although these savings are arguably not real because costs of living still have to be paid. The fund will be financed from a combination of funding from central Government and new funding is to be raised from contributions paid through the income tax system. It is proposed that the States will transfer current annual spending on long-term care into the fund which at the time of presenting the report stood at £31 million a year. Although this amount is going to be increased by R.P.I. (Retail Price Index) on an annual basis there will be no growth in the real value of this contribution over time and, as Members are aware, we did debate Senator Breckon's amendment yesterday to allow for growth but it was not successful. During the development of the scheme it was recognised that the benefits it would provide for older people needed to be balanced against the cost it would impose on younger people. So pensioners will also be liable for the long-term care contribution with payments liable on all earnings and other income. Therefore, the scheme covers everyone from the age of 18, and younger people in receipt of long-term care will be treated the same way as pensioners in the proposals. Between one third and a half of all pensioners are expected to be liable for the contribution. I believe the switch from the 2011 proposition, which was to charge the working population via Social Security contributions to include the retired to contribute towards the Long-Term Care Fund, if they pay tax, is the fairest way forward. Generally speaking, it is the generations born in the 40s, 50s and 60s who have most benefited from a massive hike in property prices and Final Salary Pension Schemes in some cases compared to the young people of today and the past decade who struggle to get on the housing ladder and will not enjoy the pension benefits of their parents and grandparents, this has to be the fairest way to deal with contributions and who should pay. The average duration of long-term stay data has been taken from U.K. evidence. If we had improved data specific to Jersey it would enable better assessment of the cost implications by setting a cap on the cost of care. We, therefore, recommend, in our report that improved data should be gathered in order to monitor and assess the cost implications of the fund. We must not forget that the level of migration plays an important role in determining population trends in Jersey and estimated population numbers are highly dependent on assumptions about migration patterns. This has potentially important implications for both the demand for long-term care and for its finance. Similarly, we must not forget about the work being carried out by the Health and Social Services Department in implementing P.82, *'Health and Social Services: A New Way Forward'*. Investment in cost-saving measures, such as more suitable housing and technologies to enable people to stay at home for longer may reduce costs of long-term care provision. The Social Security Department commissioned Oxera to develop a forecasting model specifically for Jersey. One omission from the Oxera report is discussion of pensioners' income and how assumptions about variation in pensioners' incomes may impact on the value of State spending or means-testing support. Finally, the panel learnt that discussions

between the Social Security Department, the Treasury and Resources Department and the Health and Social Services Department are taking place to determine what services currently provided by the Health and Social Services Department will be passed on to the Long-Term Care Fund.

[9:45]

The panel is concerned that this work has not yet been completed and although the Minister for Social Security is determined that the Long-Term Care Fund will be ring-fenced, there is a risk that the criteria for care could be expanded to include other healthcare services broadening the original intention and cost of the fund. The panel concluded its report by saying it broadly supports the aims of the Long-Term Care Scheme. There are no simple answers as to who should pay but it is ultimately up to us, the States, to determine whether the proposed scheme will meet the needs of our community both now and in the future. There is no escaping from the fact that we shall all have to pay more in the future for our healthcare, our long-term care and pensions. To do nothing is not an option. A Long-Term Care Scheme which addresses the issues most people have most concern about is, in my opinion, of the utmost importance. The public have been waiting for this for a very long time. I hope our report will inform the debate and assist Members in determining whether to accept or reject the scheme.

### **1.1.1 Deputy R.G. Le Hérissier of St. Saviour:**

I thank the chairman for that good overview. I think it has enabled us to get a fix on the issues. I would like to go back ... there was a discussion and I must admit it has confused me, as I am so easily confused these days. It has confused me about the difference between a tax-based system, which Deputy Young was really ... and he had a strange form of logic yesterday. He ended up by saying: "It looks like this. It looks like this. Therefore, it is a tax." I must admit I cannot go with him on that because an insurance scheme is where society decides, as was the case in Britain with the Beveridge report, it says: "There are certain needs that can only be shared among the generality of that society. The needs that are being met are often random." In other words you have no wish and indeed no expectations that it will happen to you, that you will fall seriously ill, for example, just as with motor insurance. Most people, except those who stage these crashes, it appears, do not go out to have a motor crash when they enter their car for example. It is a random consequence often of what happens. Similarly, with insurance, we bring about insurance, as Beveridge made very clear when he wrote his report, in order to deal with needs that are often random, that we have no idea are coming, but that could well cripple us financially. That is why, whatever it quacks like, whatever it looks like, and whatever form of logic Deputy Young chooses to use, as he did yesterday, that is why at the end of the day, despite the Minister for Social Security having confused us by tagging it on to the collection system of the Tax Department, that is why I think it is an insurance and I think it is long overdue. I think the current Chief Minister needs to be congratulated. I know he is a bit short in the congratulations department. He needs to be congratulated because he did push through these principles, albeit as a Social Security scheme, like indeed the Guernsey one is and has remained. I think this notion that we would grab people's houses even though, as Deputy Hilton of St. Helier indicated, there is this feeling that property owners have done very well in Jersey over the last decades, as they have, it seemed to be arbitrary. Everybody that was drawn in to the scheme ... and it raised issues: "Why houses? Why did we not grab - I do not know - other assets that they had like classic cars and so forth and so on?" It was all starting to get out of control and why, if we felt property values were running out of control, if we felt the profits were reaching, in some cases, obscene levels, did we not look at other tax measures like, for example, capital gains tax. It was always unfair. I know this will be raised because there is an undercurrent of criticism which has been presented to me that you are favouring a certain class in society. I think there are other ways, if we do think there is an issue there, of dealing with it. Deputy Hilton has given a good analysis of all the financial implications so I will not dwell on

those but I think we ought to be aware that any big piece of legislation always has ... sometimes it has perverse consequences but the best financial modelling in the world cannot deal with unexpected happenings in the world economy and so forth. Despite the optimism that radiates continually from Senator Ozouf, and radiated over the airwaves this morning from the deepest parts of the Middle East as he spoke to us, despite that we know that Western economies are in for a rough ride for a fairly long time, turning around the economies of the West. The notion that we can keep the growth going based on the kind of materialism and credit-fermenting system, which underpins so much of the, quite frankly, the falseness of British economic growth, the notion that we can keep that going at the same level in the West is problematic. I think we have to realise that this may cost, as Deputy Hilton intimated, a lot more. I have got no problem with that but let us not believe that financial modelling, the assumptions we build in now, are assumptions that will remain true for a long time. There is absolutely no guarantee and we would be stupid to think that given the way that world economies are going at the moment and despite the optimism that was coming over the airwaves from the farthest corners of the world this morning. The other thing, if I may switch, is the issue of the costs that the providers charge us. They provide massive charges and in England it was basically based on a Ponzi mortgage-type scheme. A lot of that has collapsed. In other words, there was this idea that people rushed into residential care, they bought residential homes up to the hilt on the mortgages, they relied on a steady flow of revenue from local government and then all of a sudden that flow was rudely interrupted by Government cutbacks and these companies started collapsing, as we know, and there were, in a couple of cases, implications for their Jersey branches, or there appeared to be. These companies started collapsing and then all of a sudden the question arose that Government would have to move back in to directly provide care, which is a model we have been moving away from in Jersey, or it would, quite rightly, as the Strategic Health Plan stresses, have to continue its switch to community care, but we would be naïve to think that is cheaper. Quite the opposite, as the Minister for Social Security knows only too well. That, in fact, can be more expensive. The notion of the angels, because that is, in a way, the whole temperament and their attitude of the angels of Family Nursing and Home Care appearing at night and keeping the system going. We have been mightily fortunate but we have stretched that system almost to breaking-point. I get constituents saying: "I cannot get people later in the evening so I am being put to bed at 6.00 p.m.", because of the sheer stretch of resources that is occurring. So let us not kid ourselves, community care is going to be very expensive. In fact in some instances, maybe later in many instances, it will exceed the costs of residential care. The other issue with the cost of provision as related to this is, how do we negotiate with the providers and I was ... the then Deputy Breckon, when we were on his panel, we went to Guernsey and looked at their scheme and it was very impressive. It has been running for 10 years now. Okay, it did not cover community care, which I think it will be moving to, but one of the interesting things was I felt the Government was essentially pressing the residential care sector almost in a cartel fashion and saying: "If you charge above this, this is all you will get", and the rate that was fixed was quite a way below what the providers were arguing was their economic rate. They were saying: "We will pay you this", and of course it has to be remembered, and this will affect the purists of competition law, even though we know that the purity of our fight is not quite as good as it used to be, even though the Government is the major buyer now of the services. So it had the muscle to say: "This is what we are going to pay you." Not unreasonably, not so people were being fed 2 bits of cornflakes instead of 20 in the morning or whatever, but the impression I got, it made sure it told the providers: "The days of making hay over residential care are over. You will charge realistic rates", although it was not told to us, but I imagine: "We are not going to support outrageous financing schemes for residential homes", for example; the issue that led to the collapse of large sectors of the English system. So I would like to hear the Minister for Social Security's views on that because he has a lot of negotiating power and I want to hear that he is going to use this effectively and not, as I said, unreasonably. So, to sum up, I am a great fan of this system. I



think the Minister for Social Security has to be congratulated, as do his predecessors, for being committed to it. I think it will not be a gift to those who have made large profits because I know there is this feeling in certain quarters and similarly there is the feeling: “Why should we reward people?” and the phrase I hear and repeat is: “Why should we reward people who have been at the pub every evening.” That is a famous phrase you pick up as you go around. So I think by making it an insurance, albeit using the tax system as the collection agency, you spread the risk among society of what is an emerging problem and one that is capable of financially crippling a lot of people.

### **1.1.2 Deputy S.G. Luce of St. Martin:**

With the potential debate of P.93/2013 to remove Senators from this Assembly still hanging over us I would like to pose a rhetorical question of the Assembly, if I may? Do any Members know who topped the poll in the first ever Senators Election in 1948? The answer is a name that most of us use quite regularly, Philip Le Feuvre; the very same Philip Le Feuvre whose name is on the front of our Social Security Department building. In 1937 Le Feuvre was first elected to the States as Deputy for St. Mary and he quickly joined the Labour Department working hard to provide employment for Islanders. Later he became chairman of the Social Assurance Committee, charged by the States with studying the question of social insurance in its entirety including old age pensions. Between 1946, when he was a lowly Deputy, and 1951 this ex-Centenier and farmer became the architect of the Social Insurance Scheme, Jersey’s version of National Insurance now known, of course, as Social Security. I make no apology for this brief history lesson for I see many similarities between the 2 poll-topping Senators, Le Feuvre and Le Gresley. **[Approbation]** I also see parallels between today’s debate and the one back in the 1950s to introduce Social Security for the first time although there is one aspect that I am confident will not be repeated. Some Members may know that back in 1951 the then Deputy Venables attended a meeting of 1,500 people protesting against the new Social Security Law in the People’s Park. When a vote was taken he was the only person to raise his hand in favour and ended up having to escape to the Town Hall. Similarly, on the day when the legislation was finally passed there were ugly scenes in the Royal Square, where according to the *Daily Graphic* potatoes, tomatoes and other missiles were thrown at supporters of the new law. I am very confident Members will not face a similar fate when we come to leave the Assembly later today. Back in the 1950s, although they were not particularly happy about it, States Members realised that they needed a scheme to help the less well-off when they became ill or after they had retired from work. Today, although we are not overly united about how we find the money, we realise that the funding of long-term care for the population of our Island is not something that will look after itself. Just as they did back in 1951, we need to take some tough decisions now in order to fund the care of our population in later life. We must not shirk from this challenge, this responsibility, because we know that life expectancy has increased by well over 10 years since the 1950s. We know that medical science will continue to keep us alive for longer and we know that medical inflation will continue to outstrip average inflation on an annual basis.

[10:00]

In short we will be here longer. We will need more caring for and that care will be increasingly costly. We need to prepare for this and I, for one, am very grateful to the Minister for Social Security and previous Ministers and the Social Security team for producing this proposition for us today. Reaching an agreement on how we fund this new scheme was never going to be easy and now that we have negotiated our way through the amendments, I hope we can move on quickly to agree this hugely important and significant piece of work. In the same way that we now look back with gratitude that our predecessors had the foresight to introduce Social Security my hope is that others will look back in 20, 30, 40 years’ and be grateful that we, in our turn, passed this long-term

care proposition today. It should come as no surprise to Members that I will be supporting the Minister for Social Security today and voting in favour of this important proposition.

### **1.1.3 Connétable P.J. Rondel of St. John:**

I am fairly happy with this but have a concern [**Laughter**] being the 5-year rule of somebody joining the system. We are told that a person can come over here and after 5 years be eligible to join this system. I thought I heard the Minister for Social Security say 5 years today but I was not feeling very well so I do stand to be corrected. So whether it is 10 years or a 5-year rule I have got concerns because we have people come over here to stay with their next-of-kin at the age of 70 or 75 who will not have paid anything into our system whatsoever in that 10 years, and when they will be needing care, we will be expected to pick up that bill if that particular family, or that particular person, has got no funds, *per se*, to make contributions. Our children and grandchildren and ourselves would have paid something into the system. I, being an old-age pensioner will pay considerably less than what my grandchildren will be paying but at least we will have put something in place. I am concerned that we have an influx of people, shall we say holiday retirement people, who will come in here and will be a burden on this particular fund. I am a little sceptical with anything to do with Social Security given what has happened in recent years. Let me say I am heartened that it is the current Minister for Social Security who is bringing this and not one of the 2 previous Ministers who under their tenure millions of pounds of Social Security ring-fenced money was removed or given away by taking away prescriptions...

### **Senator I.J. Gorst:**

Would the ...

### **The Connétable of St. John:**

I am not giving way. Millions of pounds ... please, I am not giving away.

### **The Deputy Bailiff:**

Chief Minister, you will be able to address the Assembly.

### **The Connétable of St. John:**

Absolutely. Of course, the Chief Minister, himself, was responsible for helping to raid the Social Security funds of many millions of pounds before there was a law change. We are now being told, and it was Senator Breckon who raised it yesterday, that currently we have a situation where employer and employee and Government pay in equal parts towards Social Security *per se*. We are now being told that the Government wants to take a lesser bit of responsibility and drop that, instead of 33 per cent, down to 28 per cent. This proposition has got the fingerprints of the Treasury all over it. I am going to listen carefully to Senator Le Gresley when he sums up later on, because, as I have said many times in this House, I have got a lot of faith in this gentleman, this Member. He has done an awful lot in the short time he has been at the helm of the Social Security Department and I am going to put a lot of trust in him. I will listen to what he has got to say later in the morning or in the day before deciding which way to vote. At the moment I am in the air, if anything, in relation to this but he might well have put my mind at rest, the way he sums up.

### **1.1.4 Deputy E.J. Noel of St. Lawrence:**

It is always a pleasure to go after the Constable of St. John. This proposition represents a forward-thinking approach by the States faced with an ageing population and rising tax-funded costs of long-term care. We need to do something. What other option is there? We can sit back and do nothing? Leave older people potentially with no support, no care and no money. The current system and its funding is just unsustainable. The States are acting in advance of the real problem arising by introducing a workable solution today. The proposed scheme is fairer. It shares the cost

of long-term care across the community at large. It relieves the individuals of bearing the whole burden. It removes financial uncertainty and the worry that many families face when a close family member moves into care. It sets out a maximum contribution to care costs that everyone is clear about. If people want to, in the future, they may insure against these costs. Means-tested support will also continue for those who cannot afford the co-payment and care costs. The existing tax funded Income Support Scheme will also continue. The scheme fits with people's strong desire to be cared for as long as possible in their own homes. The scheme will be funded by a new charge rather than a tax. On balance it is more like a charge than a tax because the money raised will be going into a special ring-fenced fund. It cannot be used for anything else other than for long-term care. We do not hypothecate general taxation in this way. However, yesterday I appreciated Deputy Tadier's point when he referred to the proposed funding mechanism as being a hybrid. It is like a charge because the contributions are going into a ring-fence fund designed to provide a specific range of benefits. It is a charge because the contributions are capped at the same level as the current Social Security contributions. It does, however, have tax-like features because contributions are calculated on the net taxable income and not the gross income. I agree with Deputy Le Hérisier: is it a charge/is it a tax debate, in my opinion, is completely irrelevant because at the end of the day long-term care needs to be provided and needs to be paid for. Senator Ferguson claims that there will only be 2 types of winners, one of them being a married couple of £40,000 a year with 2 children, a dog, 2 cats and a budgerigar but I do not really see it that way. In fact, if I recall it is estimated that one in 4 of us will require long-term care at some point in the future. To me that simply means that 3 out of 4 of us will be winners because we will not need long-term care. Nobody requiring long-term care is worse off under these proposals. Those who have difficulty with a co-payment will receive help from the Long-Term Care Fund. People's inheritance will be largely secured. A primary residence is set at a 3-year rolling average of the average price of a 2 bed-roomed house. This will hopefully encourage people to downsize and therefore may stimulate movement within the housing market. The asset disregard also applies to non-homeowners and again this is much fairer. The scheme will be easier to understand and access than the current system. Let us not forget that as well as helping to achieve dignity for our older people, the scheme also covers all adults over 18 years of age who need long-term care. This is something I particularly welcome as a trustee of Les Amis. The scheme strikes a balance. There is a relatively low contribution rate paid by all taxpayers and a realistic and affordable, potentially insurable, co-payment. The proposals will help those who are asset-rich and cash-poor. Lower interest rate bonds will be more readily available to homeowners and registration will be simpler than at present. Naturally, there will be rules around disinvestment of property. Any transfers of property will be treated as divesting if not done at full market value. Transitional provisions will also be available for those who are on care before July 2014. The scheme is designed to have one collection method using the existing I.T.I.S. (Income Tax Instalment Scheme) system and one application process. Therefore, there will be no new army of bureaucrats. This proposition is in tune with the public mood. The majority of the sponsors of the original Green Paper made it clear that there is a desire to change the current system. In July 2011 the States unanimously agreed and passed the Long-Term Care (Jersey) Law 2012, the framework law, to which we now need today to add the details. This scheme is well thought out. It delivers a balanced and relatively simple solution to a very complex problem that faces all jurisdictions around the world. Members today will be putting their heads in the sand if they do not support it.

### **1.1.5 Connétable J.L.S. of Gallichan of Trinity:**

I have been here long enough to be one of the Connétables that used to do welfare requests and I must say the worse type of welfare request was when a member of a family came to the Parish Hall and said: "Sadly my parents have now come to a certain age, they cannot cope at home. We have one family property that has been in the family for generations and is there any way we can help

with their care in a private care home without selling our property?” because it would affect their parents because it was their wish to pass it on to another generation. It was always tricky and I think it is fair to say the Comité des Connétables - certainly since 2002 since I have been on the Comité des Connétables - have met on several occasions with the Social Security Department to say: “This seems unfair, unjust”, when people who have never spent or asked the State for a penny. They have maintained their properties forever, they have looked after it. Then they came to the state where they had a property worth a lot of money, not their own fault, only because they have held it for many generations, property prices has escalated since the 1960s which, I think it is fair to say, no one would ever have thought that and we wonder now, today, if they will move like they have done in those years. It seems hard to think that people who may have been 85, just because they have lived and suddenly come to have ill health, they had to divest of their property. I think it is fair to say that we thank the Committee Presidents in those days, and also the Minister for Social Security of the day for coming forward with this sort of proposition. It is only fair that there is a liability. I think if you mostly look back in history there were some people who divest their property just to try and avoid having that done or they sold it on or passed it on to their children so that it would not happen that their property would be sold. This is far fairer. I do not think anyone will say this is unfair. There is a limit and hopefully all those who come to this situation in the years to come will say: “Well, at least I have paid something in now and there is some help and I do not mind parting with some of my assets”, but at the end of the day it is capped. I thank the Minister for Social Security for his work and all the past Social Security Committees and the people who worked there. This has been taking a while to come and for anyone who thought yesterday afternoon: “We can just change it and it will not take long. We can do it in a couple of months.” Look how long it has taken to come. This seems forever, an age, it has been going on. They have worked hard. I think at the end of the day it will only affect those who pay tax. It will not affect those who are poor and this is the way forward for the future and I am sure, as the Deputy of St. Martin has said before, in years to come we will say: “Are we not thankful that we put this in place for those who need care?” I think in the wider community there are a lot of people that want to stay in their home and if there is care available to have some nursing just pop in in the morning to get him out of bed and to get him up and get him moving for the day so that they can stay in their home that will be of great benefit to the community in general. These over-55 homes, retirement homes, seem to extend the lives of parishioners in a wonderful way.

[10:15]

They are on the flat area. They seem to live longer, which is good, but they also have their independence and they feel that they are still in charge of their own capabilities. I fully support this and I wish the Minister for Social Security well throughout the day and I am delighted to hear that we nearly have the Connétable of St. John on our side.

#### **1.1.6 Deputy R.G. Bryans of St. Helier:**

I want to thank Senator Le Gresley and previously Senator Gorst for bringing this to the House, the Assembly. He has always set out his agenda to protect the more vulnerable members of our society and I think this document is remarkable. I think it is quite historic. In my previous life I dealt with insurance and Deputy Le Hérisier is quite right, this is an insurance contract. Long-term care was spoken about for a considerable amount of time certainly towards the end of the 1990s and lots of companies dived into the marketplace having ridden in on the back of things like critical illness cover and the like and they thought this was the new saviour. Virtually every company, and there was a myriad of them, created these long-term care contracts. The trouble with it was, it was not a very long time before they dived back out again. It was too complicated and in fact nobody could sell the contracts because nobody wanted to buy them and why was that, because simply this was a problem for the future. It was nothing that they wanted to deal with. They did not consider that

paying some small sum early on in their lives to reap the benefits at a later stage in their lives would be important so they put it on the back agenda and it was something that somebody else would have to deal with and it has been the same for Governments around the world. Jurisdictions have struggled with this because they would never bring it to the parliaments because it was somebody else's problem. It was something to be dealt with in the future. I was attending one of the care homes a couple of years ago and I sat with this woman and I said to her: "When did you arrive?" and she said: "3 weeks ago" and I said: "Oh, really. Why was that?" She said, and she pointed to her husband who was sitting next to me staring off in to the middle distance: "Because he has got Alzheimer's and I just could not cope anymore." So I thought that was sad enough in its extent and then I said: "Oh, where did you live by the way?" She just pointed through the window and she said: "Just over there", and I said: "Right, okay, so what is happening now?" and she said: "I am having to sell my home because otherwise I cannot afford to live in this place." That encapsulated, that little vignette, really illustrated to me the depth and the sort of clarity and the kindness that this scheme is going to provide future generations. That is why I say this is a historic document because it has foresight. I was reading a *Guardian* article just yesterday in relation to long-term care and once again it was stating that all of the jurisdictions that we see around the world in the way that Deputy Hilton has illustrated and various other Members have talked about the detail of this burgeoning baby-boomer situation that we see, are struggling with it and yet here we are today about to, and I am hope and I am sure it will go through, accept that we are grasping that nettle and getting on with the job. I heard a phrase this morning talking about why schools were failing in the U.K. and the phrase was "poverty of expectations" which stuck in my mind. I think that what this proposition deals with is the poverty of provision and that is what everybody struggled with. So I think this is a remarkable document. I give praise to the Senator. I give praise to the team behind him because I think they must have done a massive amount of work to bring this to this stage. I think for my part that I want to thank him for my children and for my children's children and generations to come because we will not see the benefits of this directly, but in the future people will have to pay for the sort of care that the Constable of Trinity was talking about. People know that what they have worked for will be living on for generations. Just one last thing, I attended a conference a few years ago before I came into politics and one of the Saga Insurance guys at the conference said: "That whatever you had previously seen in generations before you, what your mothers and fathers had done, which is to build up the homes and build up this capital that they hoped to pass on, will disappear. Everybody will be spending every penny that they have on provision for the future." This document provides the security for people knowing that this will look after them in future lives. So I thank you, Senator Le Gresley, and I will be supporting this proposition.

#### **1.1.7 Deputy J.H. Young of St. Brelade:**

In common with other Members, this proposal is the most important Social Security measure since the Social Security Fund was set up. I think the Minister for Social Security, undoubtedly, deserves the highest congratulations and his team have worked tirelessly on this. There is absolutely no question the cost of care will escalate and sadly unless something is done about scientific research and we step up the amount of our efforts on dealing with the causes of Alzheimer's, that particular group that suffer dementia, sadly can only increase. I would certainly like to see Governments make more efforts in the prevention of that part of it. Of course physical mobility as well, disability and other care needs are probably the larger proportion and here we need to make sure that the community provision is there to ensure that this package is matched by quality services meeting those needs. I cannot help feeling that one thing we should think about doing in the future is thinking about having a dedicated Minister for this purpose because at the moment I think the Health and Social Services Department is very wide, too wide I think, and secondary healthcare and treating illness is always likely to take first priority in funding. This is about long-term care and a

major strategy. I think the Minister for Social Security and his team have produced a tremendous model, financial model and a service-based model weighing up all the contributing elements of the contributions, the care costs cap, the costs of residential care homes, the limit on the amount of property protected, the co-payments, the rules of the scheme and so on. That has been, I am sure, an absolutely difficult thing to do and they have had to make those judgments and come forward with the scheme. Also I think it is going to ease pressures on families and remove sources of worry, particularly for relatives, and remove pressure on the elderly that comes from families to transfer homes and to enter complex arrangements and devices to try and protect their wealth. The families now will be excused the stresses and those stresses will not be there which is an enormous benefit and also removing the uncertainty of care for, sadly, people at the other end of their life, in younger years, who suffer very severe disabilities. I know their parents are desperately worried about the future and how those youngsters can be cared for in the future when those parents are not around and they can be comforted that this scheme is here. So I am clearly wholly behind the principles of the scheme because why should people, who have worked all their life and adopted prudent financial measures and brought up their families and managed to acquire small modest homes, very adequate homes but modest ones relative to some of the homes that we have in this Island, and then to be faced at the end of their life, with everything they have worked for, being lost due to their health conditions of which they are entirely unable to do anything about. I think having such a situation, allowing it to continue, would be an incentive to an alternative lifestyle of state dependency. I think this scheme is very encouraging for people to adopt those, I think, fine values. Not any criticism of others but I think it is important to have policies that work as a whole. I do have some issues, which I would like to raise, which are the detail. I do believe that this is a compulsive scheme. I agree that the debate about whether it is a tax or an insurance policy is a sterile debate. I accept the fact that I contributed to that yesterday but I did hear and I certainly worried when I heard the Minister for Social Security say this morning, because it was one of my questions: "Is there any facility for people to opt out or contract out of such a scheme?" because there could be, it occurred to me, there might be legitimate reasons for people that may wish to exclude themselves from benefits and from contributions. Yes, I listened carefully to Deputy Bryans. It occurred to me that some people may have entered into private health insurance arrangements to provide for themselves. When the U.K. addressed these issues in its Social Security Scheme, it produced an arrangement for contracting out and I did wonder whether such a facility should be thought about here but I have to accept what Deputy Bryans has said, is that those policies were not very successful. The main reason is that there will be people who will come to Jersey and work for a lifetime but have absolutely no intention of retiring in Jersey. Probably, maybe, children live on the other side of the world or frankly that it is just very expensive, enormously expensive, for retired people. So I think there should be consideration given to some opt out provision because at the moment, unless I have missed something, there are no reciprocal arrangements. So, for example, somebody in that situation, who paid a working lifetime of contributions would not be able to get any benefit from that by coverage within, for example, in Guernsey or the U.K. for the credits for those contributions. Another question I got, and when we get to the regulations I will ask the Minister for Social Security to read it: "What happens when people do receive that care and are receiving the benefit they also have to pay contributions?" I think this is important because we are talking about 3 per cent. At the moment we are only talking about half, one, but this scheme is going to go for 3 per cent. There is no question. The issue is there, clearly the scheme does readdress the imbalance of wealth between the generations and it is absolutely right but I do not think that is absolutely not the fault of the elderly generations. The big bang, the financial boom, the free market, all that sort of stuff, gave rise to the escalations of property values so I think we should encourage young people ... sorry, to bore Deputy Southern there, apologies for that. We should encourage young people to take prudent measures and provide for their futures. So when it comes to the law I shall be raising some of these questions of detail

but I wholeheartedly support the scheme. My reservations are of detail and I do hope the Minister for Social Security will refine the scheme on these points of detail as it proceeds in the long-term future. I hope never to have to use the scheme and claim benefit but if I do I am going to make sure that I get the best value and survive as long as I can but I wholeheartedly support the proposition.

**1.1.8 Deputy A.E. Pryke of Trinity:**

I would just like to say there have been some good speeches and I will try not to repeat what has been said. Last week this Assembly made a momentous decision to have an approved financial envelope for the future hospital. P.82, last year, the redesign of the Health and Social Services Department. Today, this long-term care funding is equal, if not more momentous, and it will affect all Islanders and how care is provided into the future. In this Assembly we have spoken at length about the ageing population. Some Members still have a problem, perhaps, understanding the true effect of what it will have but it is real. The number of over-65s will double by 2040 and we must be ready for that and we must be prepared. Many of us here know or have experienced the cost of providing long-term care to a loved one or relative. It is real fear that people have: "How can I afford it? Will I be able to afford it? If I do need it, how long and will my money last?"

[10:30]

The proposed Long-Term Care Fund is a ring-fenced fund that will remove that real fear on how care and funds will be paid into the future but not only if you go into a care home or a nursing home. This care fund will also pay for people having care in their own homes. For the first time it will give that family choice of where they receive that care. The level of care required will be assessed by social workers, those who are professionally qualified to do so and work with the Social Security Department for the appropriate funding. The Health and Social Services Department has worked very closely and will continue to do so with colleagues in the Social Security Department and the Treasury and Resources Department. This proposition is affordable, workable and will meet the needs of adults requiring long-term care. We are not the only jurisdiction looking at the challenges of an ageing society. Indeed in London with the G8 Health Ministers meeting today looking at improving life and care for people affected by dementia and carers plus social adaptation to global aging. The cost of the care will rise. Living longer and with...

**The Greffier of the States (in the Chair):**

I am sorry to interrupt you, Deputy, but the Assembly has become inquorate. If another Member could return from the ante room?

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

Sir, I may be able to help. May I raise a défaut on the Deputy of St. John?

**The Greffier of the States (in the Chair):**

Not while we are inquorate, I am afraid.

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

I am just hoping to resolve the situation.

**The Greffier of the States (in the Chair):**

Back to my counting, we need 2 more people. **[Laughter]** Very well.

**The Deputy of Trinity:**

Thank you, I will continue. The number of people in care will rise and that was acknowledged in the White Paper redesigned in the Health and Social Services Department. One of the emphases of

that redesign is care in the community, so this long-term proposition will provide that care and will fit very well together. Vulnerable adults who require and support their long-term care needs will also be able to make the choice as to where long-term care will be provided. This scheme dovetails very well in the objectives to provide care in the least restricted environment, which for most of us will be in our own homes. I would like to thank the Scrutiny Panel for their excellent review which I know was under a tight timescale. I urge Members to support this proposition to make a real difference to people requiring long-term care in the future not only for over 65s but, for the first time, those over 18. It will give them peace of mind.

#### **1.1.9 Senator S.C. Ferguson:**

I would start by saying that most of the over 70s I know are infuriated at being labelled a problem so can we please not be quite so dismissive of the older generation? It is a sad reflection of our ethos that we consider our senior citizens a problem. I am glad to see that the Assistant Minister for Treasury and Resources is back because I do not mind being quoted but please do not misquote me especially when I am quoting figures that were given to my panel by the Treasury and Resources Department. Page 26 of our Budget report was quite clear that at 3 per cent long-term care, which is what we are going to get to eventually, and based on the Treasury and Resources Department's figures, the only net beneficiaries are the couple with 2 children, one at university on an income of £40,000, and a married pensioner on the full pension of £26,000 a year. Everybody else is a net payer. Now we have just sorted out the misquoting, I have a few points. The law is not very clear on the position of younger claimants. I know a number of cases of married men in their 40s disabled through no fault of their own and their families have not been allowed a property bond, and no doubt they will be descending on the Minister for Social Security to put their case in due course. Deputy Bryans talks about people not solving this problem. Singapore has dealt with it partly through their health fund which you start when you start work, plus the Chinese attitude to senior citizens. I am sorry Deputy Bryans is not here to listen. The costs in Jersey appear to be much greater than the costs in Guernsey. The report of the Health and Social Services Scrutiny Panel quotes Guernsey nursing care at £756 a week. We have places over here which to my knowledge are charging £1,400 a week for nursing care. Perhaps we should be looking into this just to see why. Are we regulating to such a high degree that we are causing these prices, but I leave this to the Ministers involved. We talk about home care. I can tell you for a start home care is substantially cheaper than throwing people into a residential home provided the family are part of the care plan. I know about this because I have been there, done that, got the t-shirt. I think the old Jersey system of dower houses reflected the family taking responsibility for their own and it would be nice for this to be an ethos that we could renew but unfortunately it is not always possible to have sufficient room for 2 or possibly 3 generations in the houses we are currently building. Unfortunately if you have rabbit hutches, then you cannot get enough people in and in that case we need a plan B and this proposition is effectively plan B. We have been talking about this since I was first elected in 2002 and frankly it is about time. I do agree with some of the points raised by the Connétable of St. John, who sadly is not in this Assembly either. I can support a reduction in States expenditure through the reduction in supplementation provided it is not immediately spent by the Treasury. As I say, I am glad to see that we have a plan B as brought by the Minister for Social Security and I shall be supporting it.

#### **1.1.10 Deputy G.P. Southern of St. Helier:**

I am somewhat reluctant to speak about this because I am genuinely torn as to whether I can vote for this proposition because I think it has too many defects, some of which were raised yesterday. It looks like a plan. I agree with the Assistant Minister for Treasury and Resources that we must do something, which is a statement of the obvious but is this what we need to do? I am reminded of my footballing days when we had a plan B. If we were getting thrashed, when we were 5-nil down



we would do hoof and harry, and what that was was on receiving the fifth goal, we are 5-nil down we would pass the ball straight back to the goal keeper and all 10 outfield players rushed to the opposition penalty area and the keeper hoofs it up there in hope. It never worked, we never got to 5-1 but that was the plan. That was the only plan B we had, hoof and harry. We were really desperate. This plan it seems to me is a bit similar. It is a plan. It is not necessarily a very good plan. Where do we start? Unlike previous speakers, I think the debate on tax or charge or insurance is completely relevant to this because we have a Minister for Treasury and Resources committed to saying, repeating, promising, assuring us no new taxes. If we call this a tax he individually is in trouble. Is it tax or is it a charge? This system that we have been operating on for the last 3, 4 or 5 decades, is it working? Is it or is it, as I keep repeating to Members, a broken economic model, low-tax, low-spend? The big challenge to that is our ageing population and here we are seeing the beginnings of increasing charges or, if you like to put it another way, increasing taxes to cope with the cost of holding our society together, one of which is dealing with the demand for long-term care. What do we see? We have tax at a top rate of 20 per cent. We have 6 per cent on Social Security for individuals including the Health Insurance Fund. We have 5 per cent G.S.T. (Goods and Services Tax) in the last few years and now we have 3 per cent L.T.C. (Long-Term Care) coming on. That adds up to 34 per cent. It is looking quite substantial. When is the next change going to appear to pay for something else because the costs will keep going up and the revenue, the taxes, will have to go up if we are going to cater for the needs of our society? That is the reality. By all means, support this plan if you like but do not go round saying: "No new taxes. We are keeping taxes down", because call it a tax or a charge, it is going to go up. Why do we not admit it? That is the reality because the costs of keeping together our society are going to increase. We are told that the Social Security Fund, our Pension Fund will require extra funding in the coming 20, 30 years. We are told that the Health Insurance Fund will need extra funding in the next 20, 30 years. Let us face up to that and admit that and say: "This is the start of increased charges and increased taxation", because that is the reality. One of the pressures that we will see in our society, and I keep saying this as well and I get ignored, I think, is that here we are again with a grand 30-year plan and no population policy. How can that be, a 30-year plan and no population strategy or policy to deal with it. We are told ...

**The Greffier of the States (in the Chair):**

I am sorry, 2 Members have just left at once and left us inquorate again. If we could summon one Member from the ante rooms?

**Deputy G.P. Southern:**

I can use the joke I had reserved if you like.

**The Greffier of the States (in the Chair):**

Very well, Deputy, you can continue.

**Deputy G.P. Southern:**

Thank you, Sir. Thank you, Members. Can I apologise, like Deputy Young, if I was boring you? Where were we? Population. What I am talking about here is not the direct impact of population because I have been given an explanation of that by the Minister for Social Security and it seems to work whatever population figures we produce. However, what I am looking at is a secondary impact. One of the issues that we have faced in the last 20, 30 years is the inexorable rise and rise of the price of houses. If population policy comes up with large immigrant numbers and the population goes up because of a recovering economy which is what happens, then I fear that over the next 10 years, the next decade, we will see another 50 per cent rise in the price of houses as yet again supply does not meet demand. That is where the critical impact is and what impact does that have on the scheme we have just devised? If house prices go up by a further 50 per cent in the next

10 years are we funded for that? Is that something that we ought to be considering? The importance of a population policy which we have ignored for the past 3 years is absolutely critical, I think. That is one defect where voting for this and hoping, crossing your fingers and hoping that it works should the population go up and house prices go up, which I think is a risk.

[10:45]

Secondly, yesterday we debated amendments to this particular scheme and one of the issues was is this scheme underfunded? Senator Breckon suggested that it would be and proposed R.P.I. plus 1 per cent as the funding mechanism to make sure that the Government's contribution kept pace with the demand on it. I think that was a valid criticism and I think that is, in the absence of that amendment, an issue which we should be concerned about. Is this a sustainable, viable fund? That is the second question mark I have against it, and why it may be an issue voting for it. Thirdly, and this is one of principle if you like, in rejecting Deputy Tadier's amendment yesterday that we allow this fund to be grossly regressive at the top end. The very wealthiest in our society will pay proportionately less into this fund than they otherwise might do. I think that automatically shifts the load down towards the bottom and the middle; it must, because the need and the demand is constant. If you allow those at the very top end, the very richest in our society to pay less than the rest of us must pay proportionately more and that has to be a wrong principle. That makes me question this system and say: "Yes, this is a plan of sorts but I think it may well be the wrong plan. It is done in the context of the fact that we have transferred taxation from businesses in the last decade, what was £400 million is now £70 million, and transferred that tax burden on to individuals who are now the ones that pay the £400 million to keep our society together. The Minister for Treasury and Resources promised 3 years ago now that he was going to fix the £100 million gap and he would make businesses pay, he has failed to do so and here we are another little creep, another little notch up on - call them charges, I will call them taxes - taxation in our society without admitting to it. We do not have a solution to what we did a few years back when we went for Zero/Ten and we broke our economy. That is the reality, we have to admit it.

#### **1.1.11 The Very Reverend R.F. Key, B.A., The Dean of Jersey:**

It seems to me that in this debate there are questions of ethics as well as economics. One of the marks of a civilised society is how we care, care for those who are in trouble no matter what the cause of that trouble. Whether that is simply advancing years or an horrendous accident or paralysing illness or whether it is the result of a life lived, how shall we say, without perhaps best care for one's own health? This, that is before us, seems to me to be an excellent provision which is a great answer to those critics of our Island who try to portray us as a place only of selfishness and greed. Of course we have to provide long-term care in the same way that we provide housing or healthcare to whomever needs it. The only question, and that is a matter for other Members, is how we do it. It seems to me though that we should not be rewarding the squandering of earnings, nor penalising years or generations of responsibility nor indeed making living on benefits a life-style option. It seems that the Minister for Social Security has tried to balance all of those things with it seems to me a great level of success. How we encourage responsible living, saving and providing for our futures is also a function of Government. If you can remember being in cinemas, goodness me it must be 40-plus years ago when the first credit cards were being advertised, one slogan I seem to remember for what was then Access, was that Access takes the waiting out of wanting. I use my credit card on a daily basis. It is great. I am also delighted to say that Barclaycard have never made a farthing of interest out of me. It gets paid off in full at the end of each month. We do have a society at the moment in western Europe that is living on a mountain of unsustainable personal debt. This scheme helps all of us by ensuring that all of us make some contribution towards the care of whoever is in need usually towards the end of their lives. I do not like paying taxes or insurances any more than anybody else in this Chamber or on this Island. I

tend to think that I can spend my money more effectively than Senator Ozouf can spend it but I know that is simply proud and wrong. It does seem to me that this is one of those things into which I will gladly pay with the prayer and hope that I will never benefit from it.

#### **1.1.12 Deputy S. Power of St. Brelade:**

I too take this brief opportunity to acknowledge the hard work of the Social Security Department and indeed the previous 2 Ministers for Social Security for working on this excellent piece of work. It is overdue but I think where we are today in this Assembly it is the beginning of dealing with an iniquity that has been in our society for so long that I do take great satisfaction in thanking Senator Le Gresley today as the incumbent Minister for Social Security for his presentation of a very complex piece of work. I think it is excellent to be able to bring this to the Assembly after years and years of work. I also acknowledge the work done by the Health, Social Security and Housing Scrutiny Panel because it is important that it was scrutinised properly, and it does tick all the boxes and has passed as many tests as were needed. As Deputy Bryans said, it is an insurance policy for the future and it is important that people realise that it is a form of health insurance. The Dean just said there are many reasons for people that not only just become elderly but are also in care and, as Senator Ferguson said, our elderly, and all of us, are heading in that direction, some sooner than others, including me. We should never regard that those who are economically inactive nowadays who have paid their taxes all their lives need to be looked after. There has been for a long time an inequity in the system and I do not know about other colleagues in the Chamber but one of the constant refrains that I have heard in the last 8 years that I have been a States Member has been the inequity when somebody approaches you and says: "My mum or my dad or my brother or my sister have scrimped and scrapped all their lives and now they have to go into care and we have to sell their house." It is one of those refrains that we have all heard and it has been a very uncomfortable one because none of us as States Members have been able to give them anything like the kind of comfort we should have. Today is a part solution to this and I think that the setting on which the new report and proposition comes through is an important way to fix part of this problem. Colleagues will also be aware of if a constituent contacted you and said: "My folks, my brother who has had an accident, whatever they paid taxes for most of their lives and why is it that they have to sell their house or they have to liquidate their property when somebody else who has not been quite so careful with their money has been taken care of by the States?". It is always difficult to answer these things but today is a good situation where we can redress and give assurance to those who have this worry. I think, as many colleagues have said, those that do come into their senior years and others this is a beginning where you take out some of the stress and tension and worry that people face as they go into retirement or become elderly or whatever. I think it is an excellent piece of work by a department that sometimes gets a bashing unfairly, a bit like the Housing Department. These 2 departments do an excellent amount of work and they get a bashing from certain sectors and I think it is unfair. I say to colleagues today that I am so happy that this has come through. I am deeply grateful to the department and to the current Minister for Housing for doing what they have done and the amount of work that has gone into it. I have no hesitation in supporting this.

#### **1.1.13 Senator A. Breckon:**

I remember attending a Parish Assembly in St. Saviour about 8 or 9 years ago and I must say that the people involved were brilliant at the finances, the estimates and generally predicting what was going to happen. I remember at this particular Assembly there was an overspend of about £150,000 and it was due to the fact that there had been a number of referrals of parishioners requiring elderly care and it was realised then that not only could it not be predicted in the future but also for a Parish, any Parish really, it was not affordable. It was one of the levers, if you like, which changed the system from the Parish welfare system to the central system we have today. It was discussed in

some detail I remember at that Assembly. The other thing I remember as part of the Scrutiny Panel in 2008 we did look at the Guernsey system which has been in place as others have said since 2004. I do not think anybody should be proud of the fact that we are 10 years behind our neighbours on anything. We needed to do something and the question is what do we do? At the time of that Scrutiny Panel we recruited an excellent adviser - Deputy Le Hérissier will remember this person - Professor Julien Forder was an acknowledged expert. He advised the U.K. Government on the Wanless Review, which was the biggest review that was undertaken in the U.K. in elderly care and he is internationally accepted. I understand that the Minister for Social Security and the Social Security Department have utilised his services since then because he really does know his subject and is thoroughly professional. When we looked at the Guernsey scheme at that time, and that was in 2008, they had a surplus I think of about £16 million and the reason they had that was, from memory, I think everybody over 15 in employment paid 1.4 per cent of contributions towards this ring-fenced fund. Obviously it needs an update, I do not really know where they are at the moment and what the funding is but that was the situation at that time. I think what we have done is, through the Ministers for Social Security since then, looked at that and other things and tried to get the best we can out of different systems across different places. One of the things, and I am sure Deputy Le Hérissier will remember, and Deputy Power and Deputy Martin, at the time that in Guernsey they had an elderly housing officer who was truly independent, not part of Planning or part of Housing, whatever, and was really ambitious in utilising States land and properties for purpose-built elderly care facilities. I am not talking about over-55 flats in a field; I am talking about specific lifetime homes that were fit for purpose. The Constable of Trinity is laughing but I have seen the homes in Trinity and they are an excellent example of what is required, and I know St. Peter as well and other Parishes have worked on the scheme. These are places where people are comfortable and they can be assisted to live there as long as possible but it was not developer-led, it was needs-based led and that is the difference where I think we are in a trap. We have had this debate not that long ago about over-55s housing. We rezoned land for this purpose but they are in effect flats in fields. They are not necessarily lifetime homes. We have allowed that to happen and I think maybe the Planning and Environment Department have been a bit slow on the uptake. I remember at the panel we asked a former Minister for Planning and Environment what is a lifetime home. He said: "Do not ask me, ask the Assistant Minister, she has more experience than I have. She will know what is required to do that." We said: "That is not good enough. You need to be more ambitious with the planning specifications to make that fit for purpose so that part of this object can be achieved."

[11:00]

It has been identified that many people have lovely homes but after a certain age because of their mobility problems and the like then they are not fit for their purpose anymore, so I think that is something that needs to be addressed. The other thing is I remember there was a period of about a year where every 3 or 4 weeks families to see me because they were in, let us say, some sort of distress because of what had happened to an elderly family member and said: "We did not realise this was going to happen", and the Constable of Trinity mentioned that before. Although we are bringing in a scheme now there are many people who have suffered some distress and hardship and difficult decisions because of where we were before and that is really why we need to move it on because those families had some very real concerns about that. The other thing that many said, even elderly people said: "Yes, we would pay into an insurance based ring-fenced scheme. We do not want to give the States money so they can put bends in Victoria Avenue or whatever they want to do. We will pay in providing it is an insurance based scheme. We cannot afford it on our own but collectively we would pay", and one of the reasons they said that was the cost of care could be around about £1,000 a week and that is still fairly common give or take a few pounds. They had a concern and a fear and the comfort was that a scheme like this was on the way. As I say, they

agreed generally that they would pay for that. The other thing is we have a known increase in the older population and the Minister for Health and Social Services mentioned a few moments ago, it has been taking place today I think, about dementia care and the U.K. are proposing to increase their funding for dementia research from £66 million now to £132 million by 2025. There is a reason for that because the predictions are that global numbers of dementia sufferers are expected to treble by 2050 to 135 million people globally. That is globally but we are a small part of that and we know unfortunately that some of this is going to happen. Then there is a political cliché: “Something must be done”, but then this is part, I think, of that solution. It is a giant step in the right direction. I remember years ago I took a session at Victoria College and even some of the younger people would say: “We would pay because that happened to my gran.” Although we are saying there is a burden on younger people, I think a lot of younger people would sign up to it because they know of family circumstances where things have happened and they are old enough to understand the consequences and they also know that somebody has to pay. Generally we accept that if we each pay a little bit then some people will get the benefits and we are doing the right thing, we are caring in the community. That is what it is about. The only thing where I had a frustration, and I used to wind up the former Minister for Social Security, is I said: “Bring in the thing or get me a Zimmer frame or something, at least do something”, but that has been a frustration for others because people are in the system and they are saying: “What is happening? When is something going to happen?” I have to take my hat off here to this Minister for Social Security and the last one and the officers for the tremendous amount of work that they have had to do. We each might have a criticism about bits and pieces of it but getting it all to come together, what we have seen or what we have before us today with this proposition, P.99, and the other things behind it, it is not only what is in there it is what is considered and that does not work with that, and there has been input from the Tax Department and we have moved in that direction. I know there has been some criticism about that but I remember the question was asked a while ago, if it is just down to Social Security contributions because one of the things I felt is why should employers not pay something because a lot of people now in employment do not have pension schemes and if they paid something, 0.5 per cent or 1 per cent, it would be something for their employees in retirement. It is their contribution if you like if they are not getting an occupational pension. There has been some discussion about how you would fund it and what is appropriate but also what is sustainable. That is the concern I had because when I thought about this before I had an idea that we would all pay in for a period of time, say 12 months, and nobody would get anything out. That gave you the buffer to start so it was not quite pay-as-you-go but we said: “This is coming. This is what we do”, and then after a certain period people would qualify to do that but we have moved on from that but there are still some bars that does not allow anybody from anywhere to come here and take a benefit. There needs to be some residence requirements and I think that is a right and sensible thing to do. I proposed an amendment yesterday and that was my only reservation. I have a concern about the States, the general revenue contribution, and if that becomes a lesser percentage I think that is something we have not addressed now but I think we need to address it in the future. I do generally welcome this. It has been a long time coming and there is a benefit there. When there is a benefit somebody has to pay for it and I think by the way that we are doing it now by sharing it across the community it will be sustainable. There are levers that can be moved about financial settings and where that sits but generally speaking, although it is proposed to do it in the future some of the effects the way the Minister for Social Security has proposed this are actually in place at the moment and I think many will appreciate it. I remember there was an email that did the rounds between some Ministers and it was shared with me about 3 or 4 months ago where a gentleman was really infuriated by the situation that he found himself in with the family. I emailed him a copy of this P.99 and I never heard back from him so I assume there was some comfort in that but I think it will give comfort to others. It has been a long time coming but I hope Members will support this unanimously to show that we are willing to accept this and put some care in the

community but also put some substance behind it with a scheme that is fit for purpose, will last a long time. It is long-term care and it will, I am sure, need to be tweaked a little bit in the future but it is a sound basis from which to go forward.

#### **1.1.14 Deputy T.A. Vallois of St. Saviour:**

I would like to start by reflecting on where we are now and what has happened in the last 2 years, and I think it is significant where we have come to at this point in time and this is an extremely important day for the future of the public in Jersey and future generations. Not only is it long-term care, long-term care will sit now as a fundamental, co-ordinating system for 3 extremely important departments being the Social Security Department, the Health and Social Services Department and the Housing Department as well. Housing plays a significant role in this and look what we have done in the 2 years that we have been here. We have agreed major reforms to the Health and Social Services Department. We have agreed major reform to the Housing Department and now finally we are agreeing to a Long-Term Care Scheme and it is not very often that I stand up and praise the States Assembly or Ministers but I think we have come a long way in a short period of time. Complex work has been done and for that I congratulate all involved and when I mean “all involved”, there was in particular the Scrutiny Panel report that was done in 2008 which to me seemed to start the ride on this journey to where we have got to today. In that report, they did it at a time when the New Directions policy for the Health and Social Services Department did not know what direction it was going in. The Scrutiny Panel, upon their own decision, decided to look into long-term care and for that I think we should be extremely grateful for their hard work and also the follow-up responses from the following Ministers on how they were going to take that forward. It came through as a strategic plan and has now got us here. There are some important areas in the Long-Term Care Scheme. Many times I have heard people say that they worked extremely hard: bringing up their families, working 2 or 3 jobs, paying the mortgage, having to do all kinds of things and then all of a sudden everything gets swept from under them because unfortunately they have fallen ill or fallen down through some form of accident. I think what we are doing here is importing an important principle: that of recognising the personal responsibilities and aspirations of people. It is not just about how we can make more money but how we can do better for ourselves and how we can provide for our family without that, at the last minute, being torn away from you because of unexpected consequences. Social Security is important. It is not predictable, there are risks. There is no reason why we should not make this decision. It is important to recognise that I see the Social Security Department as an important check and balance on the Health and Social Services Department going forward, especially with the agreement of this long-term care. Because vitally on page 15 of the report to the proposition it does talk about the Caring for Ourselves review which was endorsed by the States Assembly, P.82/2012. It was designed to lead to a reduction in the number of people needing care in care homes and a reduction in the length of time that people eventually spend in institutional care. The success of these policies will lead to L.T.C. costs rising more slowly as individuals will be able to remain at home for longer at a lower total cost. That is all well and good but from experience of many wonderful words being spoken and written by Ministers of the past and Members of the past, the problem that we have is never being able to properly measure the success of our policies and whether they are successful. Time and time again we are too busy just saying: “Oh, yes, yes. No, do not worry. Look, it is wonderful, it is working but, look, we are going to have to increase the charge by another 3, 4 per cent.” That might happen going forward. I do not want that to happen. What I want to make sure is that when this Long-Term Care Scheme is agreed by the States Assembly, which I believe it will be because there seems to be broad support for it, that we do not lose sight of the fact that what we are doing is endorsing this to ensure that there is an absolute requirement for co-ordination between these services. There is an absolute requirement that we recognise the impacts and the changes to the public sector, the private sector, the economy and individuals with their families and the way that they plan their

futures going forward. So, on that final thought, I would just like to pass on my thanks to Senator Le Gresley for all his hard work to getting to this point, and thank the Scrutiny Panel for doing a job of scrutinising this and laying out the facts bare, with the sufficient help of their adviser. I know we are due to have some form of sustainable funding mechanism from the Health and Social Services Department at some point next year.

[11:15]

I would like some form of progress report identifying how these co-ordinations and going forward will be measured, to ensure that we do get it right going forward and that we are able to ascertain how better to achieve long-term aims. I thank all the officers in the department and the Assistant Minister for Social Security as well. I know that there has been a large amount of work, not just with long-term care, but also things like the Discrimination Law. Thank you.

#### **1.1.15 Deputy J.G. Reed of St. Ouen:**

First of all, I want to make it absolutely clear I am not against the principles of providing a support scheme for long-term care. But I would flag up a couple of issues that perhaps the Minister for Social Security might address when he sums-up. First of all, it is regarding the basis on how individuals and their partners' incomes will be assessed when it comes to long-term care. The adviser highlighted the fact that how much income a partner will be allowed to retain when their partner enters long-term care is unclear. The other issue that I have is regarding the property. Everyone has been saying: "Oh well, now the family home is being protected." Maybe for your lifetime, but the fact that the scheme is not very generous and that even a person living in a first-time buyer home which currently, I hasten to add, is valued at about £460,000, £470,000, will be faced with a payment of £50,000 before they can access any benefit. That means, unless they have the money, and I doubt very much that many people would have a spare £50,000 sitting in the bank, especially once they are retired and living off pensions, then they will have to borrow. That is the first problem. As soon as they borrow: yes, there is a scheme in place. However, it is not only based on a base rate interest but plus 1 per cent. That accumulates and goes on building until the property is sold. Now some partners, couples, are not always the same age and generally women live longer than men. So the husband could go into long-term care, the cap could be reached and the wife stays remarkably healthy. The borrowing could start and continues to build, plus in addition to that they have had to pay £300 a week. Bearing on what the Minister for Social Security said earlier, that could be another £15,000 that you have to add to your £50,000 before you can access the benefit because roughly about a year is the time it will cost to reach that cap on average, so £65,000 that you have now borrowed which is accumulating interest. So when the second partner comes, what are they supposed to do? Then when the family comes along, God forbid, when the couple passes away, what is the choice left? There is only one choice: the property needs to be sold unless you have a child that is able to take on the debt and re-pay the debt. So do not believe that this is designed to save the property. You talk about an insurance scheme, well I am not sure. If I had subscribed to an insurance scheme that turned round and told me that your excess is £50,000 before you can claim and that ultimately when you do claim you are not even sure what level of benefit you will receive, because ultimately that is all in the detail that obviously we will be debating later. I also thank the Minister for Health and Social Services for reminding us about P.82 which we debated last year. Again, she quite rightly said, it is a significant document. I understand the difficulties that the Council of Ministers, and indeed the Minister for Social Security, faces. Because things change, things move, different policies are agreed and different decisions are made by this Assembly as promoted and brought forward by the Council of Ministers. Just to remind Members, the proposition that was agreed last year, P.82, agreed 2 things which are important and have relevance to this matter. One was the proposal to develop a new primary model of primary care by the end of 2014, next year. The other one was to

bring forward proposals for a sustainable funding mechanism for health and social care - remember, health and social care; those words are important and they are described in more detail in this document - by, again, September 2014. So we have got that supposedly being developed and commitments given by the Council of Ministers that that will be the case and they will fulfil their obligations to this Assembly. Yet, separately we have had 2 strange things happen and people wonder why I get a bit frustrated. First of all, the Council of Ministers go: “Well, we do not need £8 million so we will change the marginal tax relief. But we do need £16 million so we are going to introduce a long-term care charge. However, we still have these 2 other matters to deal with but, do not worry, we will be back to you in a year’s time and everything will be okay.” I would just like to remind Members that what it says, and what the Council of Ministers say, in P.82 under Next Steps: “During 2013 and 2014 the system plans for phase 2 will start to be considered. In particular, 3 major elements must be progressed, in order for the changes to be prioritised in phase 2 ...” which happens 2016 to 2018: “... and the health and social care system to remain sustainable a primary care strategy will be produced. This will consider the sustainability of primary care within the new health and social care system. It will be produced jointly with primary care practitioners, in order to ensure the impacts and unintended consequences are fully considered.” It is a significant commitment and obviously we are talking about health in the community; long-term care. You cannot do it. It will not happen without that taking place. But more importantly, sustainable funding: “Proposals for a sustainable funding mechanism for health and social care will be produced, with Treasury and Resources working closely with Social Security and Health and Social Services. This will consider a range of existing and proposed future funding mechanisms, including the Health Insurance Fund, and long-term care benefit.” So it has recognised that, again, there was a definite relationship which had to take place, and be in place, regarding the sustainable funding for health and social care. We want to provide for our population; we all want that. The Long-Term Care Scheme that is being brought forward by the Minister for Social Security tries to do that. My question is: how on earth does this proposal fit with what is coming round the corner? Yes, I understand that there is a sudden urgency and that, yes, there has been a delay. But if a delay means that we end up with the right scheme, then it will be worth it. I am not necessarily heralding what is being proposed as the wonderful panacea that some States Members believe it to be. I believe there is far more detail, far more matters to be considered alongside this scheme before we can ever say that. I would love to be able to stand here today and say: “I fully support the proposal in front of me.” I cannot because I cannot believe that the funding of this scheme meets the needs of our community, bearing in mind the other matters I have highlighted. Thank you.

**1.1.16 Deputy J.M. Maçon of St. Saviour:**

Just one question directly for the Minister for Social Security. I apologise, I was ill yesterday, so he might have covered this in his opening speech. I am just concerned, as we know, from the early 2000s up to 2007, that housing prices, even over a short amount of time, quickly rose. What I want to know directly from the Minister for Social Security is, what mechanism is built into this legislation so that the average household price that this is pegged against, how will that increase over time so we do not get into the situations of other schemes such as the Dental Scheme whereby basically it is great to have a scheme there but the thresholds are so low that no average person really can use it? If the Minister for Social Security can just clarify that, I would be grateful. Thank you.

**1.1.17 Deputy M. Tadier of St. Brelade:**

It does not bode well when half of the Scrutiny Panel that are present in the Assembly have strong reservations and are urging for this to be delayed so that we can get it right. That is partly how I feel, notwithstanding the fact that this is a regressive funding package which Deputy Southern has already re-clarified. I suppose one of the positives is that it does take the place of partly what



inheritance tax would do insofar as it has a mechanism for re-distributing property so that homeowners, who would otherwise be able to pass their properties they worked hard for all their lives on to their children, may have bought a modest property, will be forced to sell their properties. Therefore, that may stimulate, one would think, the property market so that the children do not necessarily automatically inherit that property. The unfortunate thing is, unlike an inheritance tax, the only people that would benefit from it are the care providers who will be charging for very expensive care. When the properties are then sold off they will be bought by those in society who can afford to buy the properties. It remains to be seen what the wider financial consequences of this policy will be. It is unfortunate that we did not take the safeguarding steps to be put in place before to make this properly progressive. The unintended consequences of this scheme, I suspect, will be worrying for some and it may lead to further amendments. Future Assemblies will be looking back at this Assembly saying: "Why did they not listen to the Deputy of St. Ouen, among other people, who was on the Scrutiny Panel at the time, because he told the Assembly that this was likely to happen?" So I do have my concerns about this. The devil is always in the detail and I will be reserving my position on this proposition for the time being.

#### **1.1.18 Deputy R.C. Duhamel of St. Saviour:**

In common with some of the States Members who have been expressing reservations, I think I would like to express some reservations. Not to say that I am going to go as far as to not vote for this particular proposition because I think it does represent maybe half a step forward, but perhaps there are one or 2 steps backward coming along. The thing that I am most concerned about is that this is a long-term care policy and inevitably with things that are long-term, you have to be pretty sure that you have done your long-term thinking correctly. I think by reducing the argument to a financial one ostensibly and pinning it to house prices, we are missing the social revolutions that are about to take place. There is a whole host of work that is being undertaken around the world in different jurisdictions to try and get a better perspective on life, on human life, and indeed on human death. I think what will happen before long, we have already got organisations like Dignatas or whatever coming forward to looking at quality of life systems rather than the quantity arguments that this proposition represents.

[11:30]

I am not saying the suggestions that are coming forward from the Dignatas group will necessarily be sufficient in themselves to go some way to make this proposition redundant but I think perhaps it might do and they might do. When this happens, I do not know, but all I can see, and if I do have an opportunity of gazing into the future, I think the social revolution is going to be the one that really solves this problem once and for all. Some Members, Senator Ferguson, began to hit the correct nail on the head in suggesting that perhaps there were better ways of living. In the old days when we had dower house and she was absolutely right, that did represent a more communal way of living which enhanced people's lives when they got into difficulty due to medical problems in later stages. It cannot be right that families continually get split up and the only opportunities we have to look after our parents are when we go and visit them on holiday for a few days or indeed if some of their more social-minded neighbours take the opportunity to pay them visits in a way that we should be doing. So I think longer-term this is a short-term measure. There are some reservations as to whether or not the sufficiency of the funding regime will be enough, if indeed the length of time that people go into these homes for, or have medical provisions at home paid for, will last. It cannot be right. Again we have these problems coming out of Social Security in terms of the raising of the pension age, if people are going to be more regularly achieving an age of 100 years or more. That is again something that is about to radically be overturned as perhaps human longevity starts to go up to even higher ages. It has been spoken about of 130 and maybe even 150 years; that is not being too much out of the picture. It cannot be right that this financial system to

prop up a medical provision for a short number of years will not be sufficient to cater for people who will expect to spend the major part of their lives on a pension or in medical care. The system just cannot, in my view, be set up in order to provide investment programmes to cover those long-term costs. So the way forward I see is we probably have to go along and vote for this. It is a short-term step, as I think, and the jury is out as to what social provisions must be made. I, certainly, if I am in this Chamber in the future, will be urging the Minister for Social Security and others to think in social terms to come forward to enhance his proposals in a way that will provide the longer-term benefits for all of those in a way that is sufficient into the future. Thank you.

**1.1.19 Deputy M.R. Higgins of St. Helier:**

It is going to be very brief because I will echo some of the concerns that have been expressed by a number of Members on the scheme. Although I am going to support it today because I believe it is a very important step forward, I agree with others, it is not the panacea and we are going to find a lot of difficulties when we do get into it. I think it will have to be revised. But I do welcome the steps that have been made. I have been in the House for 5 years now, it has taken us 5 years to get to here, and it is a step forward. I look forward to seeing the developments and the future debates on it.

**1.1.20 Deputy S. Pinel of St. Clement:**

The Minister for Social Security has set out in detail how the new Long-Term Care Scheme will work. I do not wish to repeat the words of yesterday but the modelling, consultation with the public, States Members and interested parties has been extensive and considerable. The Scrutiny Panel have been offered and accepted every opportunity to consult and I feel we have worked and moved forward to accommodate all points of view. We acknowledge the enormous amount of work undertaken by the Scrutiny Panel, especially the efforts to work together with the Social Security Department to make this long-awaited Long-Term Care Scheme come to fruition. Added to the Minister's comments yesterday, may I add my thanks to the chairman of the panel, Deputy Kristina Moore, for her unstinting dedication with her team [**Approbation**] to the very close supervision of the complicated process of the development of the Long-Term Care Scheme and hope that she will be back in harness soon. I hope that Members will agree that, faced with an ageing population and the rising costs of long-term care, these proposals represent a workable, enduring and sustainable solution to this challenge. The approach we have adopted provides people with protection against the risk of high-care costs through a combination of capping the amount that people have to spend on their care in a lifetime and extending the means-tested threshold for residential care from £23,000 to £419,000, allowing everyone to retain a considerable amount more of their assets. In the U.K. the Dilnot Commission suggested that the prospect of high-care costs and limited sources of protection is something people find very distressing. Many people are unable to protect or insure themselves against these costs and so worry about how they will manage when they develop care needs in later life. It is not possible for people to predict what their lifetime costs will be, leaving them facing a significant financial risk, especially under the current heavily means-tested system. Our progressive proposals reflect the public desire to share the cost of long-term care across the community, lessening the potential financial impact on those of us who find ourselves in the unfortunate situation of needing such care. In doing so, the proposals will protect homeowners who, when contemplating the cost of long-term care and how they might meet it, will know that a substantial amount of the value in their home will be safeguarded. People feel it is unfair that if they have budgeted carefully through their working life they are penalised because they receive little or no help with care costs. This could ultimately discourage people from investing in long-term savings or a home, instead falling back on the States for help. Those who face the most daunting prospects are likely to be those with long-term chronic disabilities such as dementia, which was mentioned earlier, which means they need care and support for a long-term

period. But as no one knows whether they might need long-term care or knows what their lifetime costs will be, everyone faces the possibility of very high lifetime, in some cases, catastrophic costs. This scheme is an insurance policy. In essence, yes, you contribute and hope that you never need to claim. But statistics dictate that one in 4 of us will need residential or nursing care. However, this scheme goes further than just prioritising the bulk of funding for a care home. It will provide similar support to those who are able to, or wish to, remain in their own homes with care support. In other areas of our life, when faced with the risk of high costs, we are protected through insurance, either provided by the States, for example, the hospital, or purchased privately, for example, house insurance. Faced with these high and unpredictable costs, individuals would usually be expected to protect themselves from these risks. However, it is not currently possible to buy products such as private health insurance which covers the risk of long-term care costs. Pooling risks in the way we are proposing helps give risk-averse people, the very people who have acted responsibly and who have saved to, or invested in their home, an assurance that their future care fees will not exceed the cap of £50,000. So the primary objective of the new scheme is to address the risks individuals face from unlimited care costs. The reforms should provide people with financial protection from catastrophic care costs and give them the peace of mind and some financial security from knowing they have this protection. The combined effect of the cap on care costs and a higher asset disregard will mean those with relatively modest levels of assets will now be able to access means-tested help much earlier. Those with higher levels of assets will see their contribution to their care costs limited by the £50,000 lifetime care cost cap and know that up to £419,000 of the value in their family home is protected and can be passed on to the next generation. People will still have responsibility for their initial care costs but if they are unlucky enough to require extensive care, they will not face catastrophic costs. The scheme will only deliver peace of mind if people believe that the funding system will be in place for their lifetime. So in adopting realistic cost parameters based around what people can afford in contributions, we have set the care cost cap and the asset disregard at levels that mean the scheme is affordable and sustainable into the future. It should mean that by the time young people start thinking about how they may fund long-term care costs, the prospect of meeting potentially catastrophic costs should be overcome by considerations about a pension or other saving scheme. Taken together, the care cost cap and the generous asset disregard should act to reassure all Islanders faced with unknown and unpredictable long-term care costs. Homeowners and hard-working Islanders will particularly benefit and these improvements are delivered without placing an unfair burden on future generations. Finally, this proposition is, at its very heart, a compassionate, financially viable and fair scheme to provide security for those and, statistics, the one in 4 of us who will require care. It is visionary and a shining example of our care for our community. I will obviously be supporting this proposition. Thank you.

**1.1.21 Senator L.J. Farnham:**

Most of what needs to be said has been said. I would just like the Minister for Social Security to be clear when summing-up as to the fact that, although it is a much better position we have now, family members will be potentially inheriting properties with £50,000 loans against them. I would like to just understand fully what the process is following that situation then. Will the families have to re-pay that £50,000 out of the estate prior to inheriting? I think that point just needs to be made crystal clear. Thank you.

**1.1.22 Senator I.J. Gorst:**

I will be brief. I want to join my thanks with, I think, virtually every Member who has spoken to the Minister for Social Security for working on this proposal for the last 2 years and coming forward with what I believe are great enhancements to the framework law, making a proposal that will give certainty, that will provide support, will ensure that members of our community are not

faced with catastrophic care costs into the future but also at the same time is sustainable and affordable. A number of levers remain in place to be able to address some of those issues that some Members have raised as concerns. There are levers within this proposal that will help to address those. I would also like to thank members of the department. Some of those members have been working on this scheme quite literally for years. Some of them are sat in the anteroom now and I think it is only right that we do thank them. Often the easy part of delivering legislation and changes to our government is the decision-making in this Assembly. The difficult part is the work that the officers undertake in making sure that those decisions are enacted to the benefit of members of our community. I am grateful to them for the work that they have put in. **[Approbation]** Three issues I wanted to address. Be in no doubt this is a long-term scheme. We do have an ageing population and I believe that it, in the way that the Minister for Social Security has now brought it forward, will be sustainable into the long-term. There is no doubt that members of our community, and as many Members have said, the lucky ones are those who will not need to rely upon the scheme but those that do it will support them into the long-term. Other Members have said that we should be considering the social issues. The genesis of this scheme is just that: that we are considering the social issues in a way perhaps that we have not done in the past. Therefore, this is delivering that social care and considering humans in the round, not just looking at the money and not just looking at the numbers. It also comes out of wanting to consider quality of life into later life. I perhaps, being of a particular persuasion, want to disassociate myself from some comments that suggested a non-caring approach, non-sustaining of life into the future, making black and white decisions about what quality of life is acceptable and is unacceptable and taking decisions in that regard.

[11:45]

I do not think that is an appropriate or responsible approach that Government should be making. We should be ensuring that systems and policies are in place to enhance quality of life for as long as individuals in our community live. That should be the right approach and this scheme helps to deliver that approach. Thank you.

**The Greffier of the States (in the Chair):**

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

**1.1.23 Senator F. du H. Le Gresley:**

I would obviously like to start by thanking every Member who has contributed to this debate. We have had some varying views, as inevitably you would do with an Assembly of 49 people. We have gone from an excellent scheme to it may well be the wrong plan, but the middle-of-the-road comment which I always appreciate from the Constable of St. John, he is fairly happy with this. **[Laughter]** That is not a bad marker for me to proceed with the final vote on this long-awaited Long-Term Care Scheme. A number of Members made some very valuable contributions to the debate and I am very grateful for what they said. I realise that you do not want to hear me repeating everything that people have said so I am going to in summing-up deal with some of the questions that were raised by Members which perhaps are questions that other people have about the scheme going forward. The first person to raise a question was Deputy Le Hérissier. He was making reference to the fact that when he was on the Scrutiny Panel in 2008, which has been commented on and I want to reiterate, did a very good job. Deputy Vallois picked up on this as well. Because they brought this issue to the attention of States Members at a time when I do believe the Health and Social Services Department were a little bit lost in what they called “New Directions”. In fact, I do not know, I think they were going backwards rather than forwards, or they had seen the wrong signpost. So the new Scrutiny Panel did do a very good job in their report. It is true to say that the scheme we have today is very much based on their recommendations. All

those members of that Scrutiny Panel are sitting in this Chamber today so thank you very much for setting the groundwork for this proposition. **[Approbation]** But Deputy Le Hérissier, and I thank him for stressing this is an insurance scheme, hopefully he has got that message across. He made reference to when they went over to Guernsey and their scheme, as we know, has been running for 10 years. He was anxious that care providers who will be receiving benefit on behalf of people in care are not going to be overcharging and charging realistic rates. My department, in conjunction with the Health and Social Services Department, have been working with the Jersey Carers Federation who basically represent the private homes in Jersey. While we cannot fix prices, that is not allowed in Jersey by the Jersey Competition Regulatory Authority, we have agreed that where somebody goes into care under a means-tested package that the cost of their care will be the standard level of care cost that they are assessed at, which is the benefit rate for their area of need, plus the £300 co-payment and that is the money that the home will receive. We do know, and I have already stressed this in explaining the scheme before, that in any care home, and particularly those that perhaps have a more business-like model, it is like going into a hotel. You have them in the street, you see a 3-star, you think: "Well that is fine for me. I am not fussed about having sea views or extra services but I am in a position perhaps to pay for some of those extra services and I am prepared to pay a higher co-payment. So instead of paying £300 which I could have paid in 3-star, I elect to pay £500 a week because I want to have the bigger room and I want to have extra services." That is what people will be paying extra for. But the care packages that we will be agreeing based on means-tested will be very much the level of benefit for their care need, plus the £300 co-payment. I am pleased there were not that many questions. Deputy Young had a number of questions. He was very fulsome in his praise and after yesterday's debate on his amendment I would like to thank him for challenging the department. Because he did come into see us and we did discuss his concerns about the method of collecting the contribution. He has alerted us to perhaps some of the deficiencies with our tax system with regard to the progressive nature of it. I can only reiterate, as I said yesterday when I responded, that the Tax Office are working on a new way forward for personal taxation. Any change to the personal taxation system will affect the collection of long-term care contribution. The 2 will be married together in the legislation that we will debate later today. So the important thing that Deputy Young raised with his amendment is: is there a better way forward? He also put down a marker perhaps for the Minister for Treasury and Resources that the new way forward for the tax system has to be fairer, and I think he did a service to the Assembly and the public yesterday. But what he did ask me was the issue around people being able to opt out, perhaps because they come to work in Jersey on a contract and they know that they will never perhaps be able to afford to retire in Jersey, or they have family and connections in another country they want to return to. I have to say that this is a compulsory scheme, you cannot opt out, in the same way you cannot opt out of paying into the Health Insurance Fund. Some people, and I count myself very fortunate - and I touch wood as I say this - in their lifetime may never need to draw benefits from the Health Insurance Fund for their health needs. Other people, as we know, could be struck down with a serious illness or have an accident and they become heavily reliant on the benefits paid out of the Health Insurance Fund and the Social Security Fund. It is what we call sharing costs across the community. I always think to myself I am very lucky that I have never received a benefit to do with my health out of the Social Security Fund. Yes, when I have been to the doctor I have had some money back, but basically it is an insurance. This new long-term care is an insurance and unfortunately people will not be able to opt out. Reciprocal arrangements do not apply to the long-term care benefit. They do apply to the Social Security benefits but not to this new Long-Term Care Fund. Deputy Young also asked me ... and I am covering these points now because he said he would raise it during the legislation and he may wish to if I have not answered his questions. But he did say, is it fair, and I think he was asking me if it is correct, that when somebody starts to receive long-term care benefit, is it fair that they should also be paying a contribution if they are a taxpayer? The answer is, yes, they will

continue to pay a contribution based on their taxable income if they are taxpayers, but the long-term care benefit is not taxable in common with other benefits. It is not a taxable benefit so it will not increase their income. It is, going back to the same conversation about insurance, when you have an insurance policy, say for your house, if you have a chimney fall down or something, you have to repair it and the money is paid out, it does not mean that you stop paying your insurance premiums. You have to keep paying insurance premiums and essentially if you are a taxpayer and a pensioner or perhaps of a younger age you will have to continue paying contributions even though you might be in receipt of the benefit but the benefit is not taxable. This is not quite a question but I wanted to challenge what Senator Ferguson said in her speech because she made reference to information that was provided by the Treasury and Resources Department when they were looking at the Budget and the effects of the reduction in marginal rate by 1 per cent and the new long-term care charge. I think it was just an omission and I am not criticising in any way but she made reference to the figures relating to a 3 per cent long-term care charge. The actual table, and I have it here, makes reference to the 1 per cent charge so there are a lot of alarm bells that seem to be ringing when we mentioned that it might reach 3 per cent by 2044. There is no way, and we have said in the proposition, that the 1 per cent rate will rush to 3 per cent in the next 10 years. We have agreed to hold that rate of 1 per cent from 2016 to 2019. That is another 5 years roughly from now. By then, we will have done a Government actuarial review. As Members will know, we do this for the Social Security Fund and the Health Insurance Fund and, in fact, we were awaiting Government actuarial reviews on both those funds as at the end of December last year. We will have the first Government actuarial review of this fund after December 2016. That will guide us as to whether the contributions that we putting into the fund, together with the States contribution, is sufficient to meet the demand and by 2019 or thereabouts, a decision would be made whether we need to increase the 1 per cent rate. But the projection is ... and I thank Deputy Hilton from our Scrutiny Panel for stressing that this has been modelled and modelled again and remodelled and checked and we are confident with all the parameters that are variable that this scheme as designed will not take the contribution rate above 3 per cent. In fact, the forecast is 2.7 per cent by 2044. So please, Members, do not go out from this Chamber and tell people that they are going to be paying 3 per cent contribution in a few years because it is not the case. We will hold the 1 per cent for 3 years after it comes in and I do not believe that we will be looking to increase it significantly until probably another 5 years. Maybe it will go up a 0.5 a per cent in 2019 but we are not going straight to 3 per cent in a very short period of time. In fact, that picks on the point that Deputy Southern was saying because he said a number of times that this is a 3 per cent charge and he listed it with the Social Security contribution and the tax but it is only 3 per cent potentially by 2044. Deputy Southern also made comment about population. We have not had a population debate. How can we be sure that this scheme will be underfunded and well, of course, the honest truth with this particular scheme is that if the economy grows and more young people arrive in the Island because all our young people are in work which would be wonderful, especially now I am the Minister responsible for getting people into work, if they are all in work and we need more immigrant labour, young people, they will be contributing into the scheme and the more contributors we have the more we can hold the rate down. So increasing the population helps this scheme. It does not damage the scheme. Whether it stresses other things within government, of course, is another matter but as far as this scheme is concerned, increased immigration is a plus rather than a minus.

**Deputy M. Tadier:**

Sorry, will the Minister give way on that? Is he sure that he is not inadvertently painting a rosy picture insofar as there will also be more potential claimants so we just ... an extra population keeps things the same. It does not make it better or worse.

**Senator F. du H. Le Gresley:**

Yes, I am happy to respond to that. I am not misleading the House because the fact is that most immigrant labour does not stay till they reach retirement. They tend to come into the Island, work for 4 or 5 years, maybe a bit longer, some will stay on, but a lot leave and therefore they contribute to the scheme but they are unlikely to draw down on the scheme. Deputy Vallois did not ask me a question but she did make a very valid point about the absolute requirement of co-ordination between the 3 departments, the Housing Department, the Health and Social Services Department and the Social Security Department, and it is very interesting, is it not, that our Scrutiny Panel covers those 3 areas and whoever thought of that must have thought they all linked together because they do and in particular in dealing with the future long-term care of our people, it is very important that we work together. Building more lifelong homes is something that I know the Minister for Housing and the future housing company are very anxious to do. We will and are working with our colleagues at the Health and Social Services Department through developing this scheme because we know that the more care we can deliver in the community, the better it is for the person. People do not like going into homes if they can be supported in their own home by buying in services which they can do with this new long-term care benefit.

[12:00]

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

I wonder if the Minister for Social Security would just give way for a moment in relation to something he said a couple of moments ago. Could he clarify for me what situation would arise for a person who comes to the Island and works maybe for 10 years and presumably adds to this fund and then leaves? Where does that fit into their future needs or is that just money that is lost?

**Senator F. du H. Le Gresley:**

In answer to the Deputy's question, the people who pay into the scheme, the Long-Term Care Scheme or the Long-Term Care Fund, are in exactly the same position as if they pay into the Health Insurance Fund unless they need to draw down. We do know that some people of a young age, because this scheme covers people over the age of 18, if they were to have a serious accident and they needed to take advantage of this scheme, i.e., they have been here more than 10 years as an adult, they would be entitled to receive benefit. If they have an accident when they have not reached the age of 28, then they are entitled to draw down on this scheme as well. So the scheme is there while they are resident in Jersey. If they leave Jersey, there is no reciprocal arrangement. It is not exportable. I come next to the Deputy of St. Ouen's question and I was - and he will not be surprised to hear me say - very disappointed that somebody who has sat on the Scrutiny Panel, has had all the advice of the experts who they employed, who has said that this scheme is better than the scheme that was originally proposed in outline in 2011, should not feel that he could vote today in support of this scheme. If anybody has had the most information, it is our Scrutiny Panel and we have worked tirelessly to make sure that any question they asked or any information they required, we would be there to provide it and so it is disappointing to hear some of the things he said. I understand where he is coming from in respect of the primary healthcare sustainable funding. I do understand what he is saying there and there is a lot more work to be done next year to deliver a funding mechanism for primary healthcare. But this is a standalone scheme. It will be providing benefits which will enable people to buy care from care providers whether it is Family Nursing and Home Care or other care providers who come into the market where there will obviously be a demand so more money will be available to purchase care packages and also we will be debating later the Hospital Charges Law. For the first time, the Health and Social Services Department will be able to charge for some of their long-term care services where they have been providing services, particularly for those who need nursing care and subsidising really those costs. So yes, we need to do a lot more work on primary healthcare sustainable funding but I ask the Deputy, can he put his hand on heart and say that all the work that he did with his Scrutiny review, that he still does

not believe this scheme is fit for purpose? I would say that that is contrary to all the advice that he has received from his Scrutiny Adviser and I ask him to really reconsider whether he would vote against this. Deputy Maçon, and we welcome him back to the Chamber today, he did miss my speech yesterday and I did say that the house price ... he was worried about the mechanism for the £394,000 that we value a 2-bedroom house. The mechanism is the 3-year rolling house price index for a 2-bedroom house so at the moment it is £394,000. We will review that annually. If there is a substantial change, then we would change the figure for our calculations. It is unfortunate because I always thought that Deputy Tadier was behind this scheme and now because of the Deputy of St. Ouen, he has concerns and feels he might not be voting in favour of it. I do ask him, because he has told me and he certainly said yesterday when he presented his amendment, that he was supportive of the scheme. So while the Deputy of St. Ouen does carry a lot of sway in the Chamber, I do hope that the Minister for Social Security might be the final persuasive voice that he listens to. Senator Farnham was the last person to ask me a question with regard to how the department will deal with the recovery of a debt that has been built-up charged against what will be known as the Social Security Hypothec. He is right that most people would probably not exceed a debt of £50,000 although there are some scenarios where somebody opts for a higher care package and they wish us to help them fund that rather the standard package but, in the main, we would expect the maximum debt to be around £50,000 but some will have far less if their property value is closer to our disregard of £394,000. The answer is that obviously if there is a partner still living in the home, there is no necessity to pay off the debt. It is only when the property changes hands either on the person selling it or perhaps the death of the partner. It is then a debt of the estate under probate. The executors would have to clear the debts of the estate and clearly those people who would have inherited the property in the will would be required to raise the funds perhaps by way of a mortgage on the property that they are inheriting or they may, if there are 2 or 3 people which often happens these days, a son and 2 daughters or something, perhaps none of them want to live in the property but they would all like a share of the money. When the property is sold, the debt, because it is a debt registered in the public registry, would have to be repaid together with interest that would have accrued. So the process is really quite straightforward because currently people have mortgages on their properties or other loans, grants or whatever, which all has to be repaid by the executor before the estate is cleared.

**Senator L.J. Farnham:**

Just a very brief question. Would the debt continue to accrue interest if the property did not change hands for a number of years?

**Senator F. du H. Le Gresley:**

Yes, the debt accrues interest at base rate plus 0.5 per cent from the moment that the loan is created so it is an increasing debt, an increasing interest charge. It is the same as any bank loan effectively. I think I have covered the questions that were raised. I repeat that I thank everybody who has spoken. I also want to thank, and the Chief Minister did this for me really, but the staff, some of whom are sat behind those glass doors. One person in particular has been working on this ever since he joined the department so I said to him the other day: "You will be glad to be doing something different soon", so that is the amount of the dedication that has gone into producing this scheme today and I thank them all for their endeavours. **[Approbation]** You may not know that today is a special day in the calendar. It is called Calendar Comet Day. Numerical experts describe Wednesday, 11th December 2013 as a Calendar Comet Day. It is the last date with the consecutive numbers for the next 90 years. I believe it is also a special date in the calendar for Jersey because of hopefully the support I will receive from Members for this new Long-Term Care Scheme. I did look through the speeches of people who spoke when we debated the law and one of the speakers was the former Constable of St. Ouen who, as most people know, had been in this Chamber for a



considerable length of time and he said when he joined the Chamber, and I believe it was in 1994, that we were starting to discuss having provision for long-term care by way of a benefit. So it has taken a lot more than what we might think from 2008, the Scrutiny Report. This has been going on for years and today we have the opportunity to look after our community, not just those people who are over the age of 65 who might need long-term care in their twilight years but also anybody over the age of 18 who might, through illness or serious accident, need long-term care. This scheme is going to help provide for them. The Deputy of St. Martin made reference to the former deceased unfortunately Senator Philip Le Feuvre who introduced the insurance scheme. When I joined the department as Minister for Social Security, I found a picture of this gentleman hidden away behind a filing cabinet and I said to an officer: “That gentleman should be on show. He should not be hidden and forgotten”, and that picture is outside my office and I am full of admiration for his work and we need to remember what he did for Jersey. **[Approbation]** With that rather emotional finish, I maintain the proposition and ask for the appel.

### The Deputy Bailiff:

Very well, I ask Members to return to their seats. The vote is on whether or not to adopt the Long-Term Care Scheme proposed by the Minister for Social Security and I ask the Greffier to open the voting.

<b>POUR: 42</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy of St. Ouen		
Senator S.C. Ferguson		Deputy S. Pitman (H)		
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
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)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**The Deputy Bailiff:**

I just announce briefly from the Chair that the Code of Audit Practice, R.153, has been lodged and just so that Members know where they are going in relation to the agenda, Deputy Tadier, I understand from the Greffe that you may wish to withdraw P.86/2013?

**Deputy M. Tadier:**

That is correct.

**The Deputy Bailiff:**

Yes, so that is withdrawn.

**2. Draft Social Security (Amendment of Law No. 6) (Jersey) Regulations 201- (P.138/2013)**

**The Deputy Bailiff:**

So the next item on the agenda is the Draft Social Security (Amendment of Law No. 6) (Jersey) Regulations lodged by the Minister for Social Security, P.138/2013, and I ask the Greffier to read the citation of the draft.

**The Greffier of the States:**

Draft Social Security (Amendment of Law No. 6) (Jersey) Regulations. The States, in pursuance of Articles 50 and 51 of the Social Security (Jersey) Law 1974 and Article 16(1) of the Long-Term Care (Jersey) Law 2012, have made the following Regulations.

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

As I said when I made my main speech, I am not going to go into a lot of detail in introducing these Regulations that follow. However, obviously I need to give some background. These Regulations make changes to the Social Security Law and the Income Tax Law to give effect to a new long-term care contribution that will be collected from Jersey residents with income high enough to pay income tax from 1st January 2015. This includes both working-age adults and pensioners. There will be no contributions from employers. The new long-term care contribution is added to the Social Security Law and the liability to pay the contribution and the rate of the new contribution are set out.

[12:15]

The contribution rate will be introduced in 2015 at 0.5 per cent rising to 1 per cent in 2016. The intention is to hold the rate of 1 per cent for at least 3 years but this will depend on the demand for the new benefit. Basing the long-term care contribution on an individual's income tax liability allows a single system to be used across all age groups and avoids adding complexity to the contribution process. Liability for the long-term care contribution will be calculated using the same

method as income tax liability is calculated based on taxable income and taking into account income tax allowances and marginal relief. This will mean that for most contributors just as they pay an effective rate of less than 20 per cent income tax judged against their gross income, their effective long-term care contribution rate will be less than the headline long-term care contribution rate. Unlike income tax, an upper income limit will apply when calculating the long-term care contribution. Long-term care liability for individuals with a gross income above the Social Security upper earning limit will be capped. Overall, the long-term care contribution will have a broadly progressive effect, i.e., individuals with higher total incomes will pay proportionately more than those with lower incomes. The collection process for the new contribution is described in the Income Tax Law. To reduce the costs of administration, the Taxes Office will collect the contributions using the existing I.T.I.S. and direct billing systems. The Taxes Office would transfer the long-term care contributions to the Social Security Department on a monthly basis. If approved, these Regulations will come into force in 2 phases. From 1st July 2014, most of the Regulations will be brought into force to allow the Comptroller of Income Tax to send combined effective rate notices in the autumn of 2014 prior to the introduction of the contribution liability on 1st January 2015 when the remainder of the Regulations will apply so that contributions can be collected. I make the proposition.

**The Deputy Bailiff:**

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

**2.1.1 Deputy J.H. Young:**

I may be seeking some guidance procedurally. Obviously yesterday in having brought an unsuccessful amendment about the basis of the charge, I have struggled with trying to identify which of these various laws picks up that element which I was opposed to. I think most of the Articles in this law fall into that category and I just wonder, rather than go through Article by Article and explain my points again, it might be better for me to just speak now on the preamble and just say certainly Article 4, which defines “residents” which I am troubled about, and Articles 5, 9, 10, 11 and 12 which adds new Schedules to the law, all of which include all of the things which my amendment sought to change. So I just flag that up so I think that is probably the best thing I can do. There are one or 2 benign Articles but I think rather than waste the Assembly’s time, it is probably easier if I do not support the entire Regulations. I think that is the easiest way of doing it.

**2.1.2 Deputy G.C.L. Baudains:**

I just wonder if the Minister for Social Security would comment on whether it has been taken into account the fact that the collection of this may be slightly more difficult for those people currently collecting it than hitherto because I.T.I.S. carries on face whereas this component is capped so somebody is going to have to do calculations on a regular basis.

**The Deputy Bailiff:**

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

**2.1.3 Senator F. du H. Le Gresley:**

I appreciate that Deputy Young has concerns about the method of raising the contribution and I am grateful for him for bringing this matter under principles but he did mention that Article 4, I think he meant Article 3, deals with issues around residence and this particular Regulation is more to do with an unusual situation where somebody may be living in Jersey but they have a husband or something who is a non-resident, so I am not too sure because the residency conditions come in later legislation so I am not quite sure why he mentioned the word “residence”. But that apart, Deputy Baudains asked about whether the capping of the contribution makes it more complicated

for I.T.I.S. There are not many people affected by the capping and obviously the Taxes Office, in issuing the effective rate notice, will take that into consideration. I do not see that as a particular problem but it is well that he highlights it because it is something that we need to perhaps discuss in more detail with the Taxes Office and employers who have maybe a few staff on that particular higher income band. With that, I maintain the principles and ask for the appel.

**The Deputy Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on the principles of the Draft Social Security (Amendment of Law No. 6) Regulations 201-. I ask the Greffier to open the voting.

<b>POUR: 36</b>	<b>CONTRE: 1</b>	<b>ABSTAIN: 2</b>
Senator P.F. Routier	Deputy S. Pitman (H)	Deputy J.H. Young (B)
Senator A. Breckon		Deputy T.M. Pitman (H)
Senator S.C. Ferguson		
Senator B.I. Le Marquand		
Senator F.du H. Le Gresley		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Connétable of Grouville		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisier (S)		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy J.P.G. Baker (H)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy R.J. Rondel (H)		

**The Deputy Bailiff:**

Now, Deputy Hilton, the Scrutiny Panel, as I understand it, has scrutinised not only this but all the remaining Social Security Bills?

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

That is correct, Sir, thank you.

**The Deputy Bailiff:**

So, Minister for Social Security, do you wish to propose the Regulations *en bloc*?

**2.2 Senator F. du H. Le Gresley:**

Yes, Sir, if I may, thank you. I will have to just go through them quickly. Regulation 1 makes reference to the Social Security Law and the Income Tax Law. Regulation 2 amends these laws and revises a number of definitions. Regulation 3 creates an additional class of insured persons under the Social Security Law who are deemed to be resident in Jersey and liable only to pay long-term care contributions under the law. This is to cover the unusual situation in which a non-resident husband has a Jersey tax liability in respect of his Jersey resident wife. Regulation 4 adds a third class of contribution, that is long-term care under the Social Security Law. Regulation 5 inserts Articles into the Social Security Law covering how a person's long-term care contribution is calculated, provides that the manner in which long-term care contributions are paid shall be specified in an order and sets 1st January 2015 as the date on which the liability to pay contributions commences. It also sets out the details of the arrangements whereby long-term care instalments are paid by the employer at the same time and in the same manner as I.T.I.S. payments commencing on 1st January 2015. Regulation 6 amends the Social Security Law to add an order making power to require building contractors to keep records of payments and deductions made in respect of a subcontractor for the purposes of the administration of long-term care contributions. Regulation 7 amends Article 30 of the Social Security Law. Article 30 currently explains how money collected under the Social Security Law is allocated to the Social Security Fund and the Health Insurance Fund. The proposed amendment creates a new allocation so that long-term care contributions collected under the Social Security Law are paid into the Long-Term Care Fund. Regulation 8 ensures that class 2 insured persons, that is mainly self-employed, under the Social Security Law who are aged 60 or more and who are exempt from making Social Security contributions, are not exempt from long-term care contributions. Regulations 9 and 10 amend Schedules to the Social Security Law. Regulation 11 sets out in the Social Security Law how long-term care contributions are calculated and that long-term care contributions must be paid at the same time and in the same manner as income tax. Regulation 12 amends the Income Tax Law to facilitate the collection of long-term care contributions. Regulation 13 repeals provisions of the Long-Term Care Law which are superseded by amendments in these Regulations and Regulation 14 provides the citation and commencement. I propose the Regulations *en bloc*.

**The Deputy Bailiff:**

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

**2.2.1 Deputy M. Tadier:**

I will be asking for certain Regulations which I think are contentious, or which certainly I cannot support, to be taken separately. Just to flag what those are. Initially obviously the main one for me is Article 11 which relates to the funding mechanism and the cap which I would have been seeking to amend and would have been consequential on my amendment. Just to reiterate, that is the area of disappointment for me that we have missed a trick here. We could have asked the most wealthy in our society to pay that 1 per cent but we have chosen as a deliberate political decision to mitigate the liability of the most wealthy in our society. As the Dean said earlier, even though his instinct is that he does not like paying taxes because the money is better in his pocket than in that of the Treasury, it is something that he would have been quite willing to pay and we have not given the most wealthy in our society, the 1(1)(k)s, those multi-millionaires who often employ other

individuals in our society, the opportunity to show their generosity at this time of year when generosity is at the forefront and remarkably we did not have any speeches yesterday from anybody saying why they think the wealthy should not be able to contribute proportionately and why there was a carve out for them. So this is an opportunity at the very least for those yesterday who supported my amendment to do so again by voting against Regulation 11. It is also an opportunity for those who were maybe caught short by the brevity of that debate to also add their support to it. With regards to Articles 3 and 4, it is just to say that it is not an easy area clearly but there have been reservations that have been raised to do with the complexities of residence. Clearly people may pay into this pot for the prerequisite time but they may not stay in Jersey. Similarly, there may be people who move to Jersey and do pay in. I do have concerns that individuals who pay in and work hard have to pay into this and may choose for whatever reason, sometimes not out of choice, move to other jurisdictions and will not be able to benefit even though they have paid in. They might require care in that residence. It may be Guernsey, it may be the U.K., it could be France which they ... it could even be Switzerland that the Minister on my right has referred to if they are going for their care needs in Switzerland and although they paid in, they will not be able to transfer that and it may well be in the future if there are similar schemes being operated in neighbouring jurisdictions, that there needs to be a mechanism whereby the contributions can be transferred and there may need to be agreements put in place for that. So it is a kind of a watch this space to flag up now but, as it currently stands, I am not entirely satisfied with those provisions but certainly with Regulation 11, I will be voting against that.

**The Deputy Bailiff:**

Deputy, is it just Regulation 11 which you are asking to be taken separately or 3 and 4 as well?

**Deputy M. Tadier:**

Three and 4 and 11.

**2.2.2 Deputy J.H. Young:**

When I spoke previously on the preamble, I had assumed that we would take the Articles *en bloc* to save time but if we are now going to have Articles *en bloc*, I am sorry to say I would like 4, 5, 9, 10, 11 and 12. Article 4 deals with deemed residence where the Minister for Social Security has got power to decide whether or not somebody is resident and therefore paying the tax. I see all sorts of problem issues, people who spend part of their time out of the Island, people go away and come back, where you have got couples where one partner is ... where they jointly pay tax but one partner spends some time in Jersey. Paragraphs 5, 9 and 10 all deal, I think, with the calculations of the charge and 11 and 12 are introducing the Schedules and the Schedules have got huge detail all to do with the complications of marginal tax. So I am sorry to say, please, 4, 5, 9, 10, 11 and 12.

**2.2.3 Senator F. du H. Le Gresley:**

I only want to stress that the residency conditions that Deputy Tadier was referring to comes in P.136/2013 and I am not quite sure why he would want to take a separate vote on Regulations 3 and 4 but now that Deputy Young has spoken, who has clarified perhaps the concerns a little bit further, I am happy to obviously if it is the wish of the Assembly that we vote separately on the ones that have been specified.

[12:30]

**The Deputy Bailiff:**

Members are entitled to ask that the Regulations are proposed separately.

**Senator F. du H. Le Gresley:**

Of course.

**The Deputy Bailiff:**

Very well. Then we first of all take Regulations 1 and 2. All Members in favour of adopting those Regulations, kindly show? Those against? Regulations 1 and 2 are adopted. We come to Regulation 3. The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt Regulation 3 of the Regulations. I ask the Greffier to open the voting.

<b>POUR: 38</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy S. Pitman (H)		
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator B.I. Le Marquand		Deputy T.M. Pitman (H)		
Senator F.du H. Le Gresley		Deputy J.H. Young (B)		
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**The Deputy Bailiff:**

We come now to Regulation 4 and I will ask the Greffier to open the voting.

<b>POUR: 37</b>		<b>CONTRE: 6</b>		<b>ABSTAIN: 0</b>
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Senator P.F. Routier		Deputy R.G. Le Hérisier (S)		
Senator A. Breckon		Deputy G.P. Southern (H)		
Senator S.C. Ferguson		Deputy S. Pitman (H)		
Senator B.I. Le Marquand		Deputy M. Tadier (B)		
Senator F.du H. Le Gresley		Deputy T.M. Pitman (H)		
Senator I.J. Gorst		Deputy J.H. Young (B)		
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**The Deputy Bailiff:**

We come now to Regulation 5 and I ask the Greffier to open the voting.

<b>POUR: 38</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy S. Pitman (H)		
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator B.I. Le Marquand		Deputy T.M. Pitman (H)		
Senator F.du H. Le Gresley		Deputy J.H. Young (B)		
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				



Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

### The Deputy Bailiff:

I will just say to Members that if anyone wants to have the minority read out, the time to ask is very quickly, please, before the Greffier resets the system because it is quicker for him to see reds and greens on the screens. We come to Regulations 6, 7 and 8 which we can take together. Those Members in favour of adopting those Regulations, kindly show? Those against? The Regulations are adopted. We come to Regulation 9. The appel is called for. I ask the Greffier to open the voting.

<b>POUR: 38</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy S. Pitman (H)		
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator B.I. Le Marquand		Deputy T.M. Pitman (H)		
Senator F. du H. Le Gresley		Deputy J.H. Young (B)		
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				

Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

### The Deputy Bailiff:

We come to Regulation 10. I ask the Greffier to open the voting.

<b>POUR: 38</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy S. Pitman (H)		
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator B.I. Le Marquand		Deputy T.M. Pitman (H)		
Senator F. du H. Le Gresley		Deputy J.H. Young (B)		
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				

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

**The Deputy Bailiff:**

We come to Regulation 11. I ask the Greffier to open the voting.

<b>POUR: 35</b>		<b>CONTRE: 8</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy of Grouville		
Senator S.C. Ferguson		Deputy J.A. Hilton (H)		
Senator B.I. Le Marquand		Deputy S. Pitman (H)		
Senator F.du H. Le Gresley		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy T.M. Pitman (H)		
Senator L.J. Farnham		Deputy J.M. Maçon (S)		
Senator P.M. Bailhache		Deputy J.H. Young (B)		
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				

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

**The Deputy Bailiff:**

I ask the Greffier to open the voting now in relation to Regulation 12.

<b>POUR: 39</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy S. Pitman (H)		
Senator S.C. Ferguson		Deputy T.M. Pitman (H)		
Senator B.I. Le Marquand		Deputy J.H. Young (B)		
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**The Deputy Bailiff:**

Finally, Regulations 13 and 14. All Members in favour of adopting those Regulations, kindly show? Those against? The Regulations are adopted. Do you wish to move the Regulations in Third Reading?

**2.3 Senator F. du H. Le Gresley:**

Yes.

**The Deputy Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading? The Connétable of St. John.

**2.3.1 The Connétable of St. John:**

Can I congratulate the Minister for Social Security and his team? The Minister for Social Security is one of the few, and I have said it in this Chamber before, who is on top of his subject and it showed yet again today.

**2.3.2 Deputy J.H. Young:**

I would just like to say briefly although obviously the votes were resoundingly lost, that I do hope that the Minister for Social Security will keep these Regulations under review as the scheme progresses. I think that we are uncharted waters here and there are a lot of issues which Members may see as detail but I think the Minister for Social Security should keep an eye on those and modify the Regulations where needed as soon as problems arise.

**The Deputy Bailiff:**

Does any other Member wish to speak? Minister for Social Security?

**2.3.3 Senator F. du H. Le Gresley:**

Just to acknowledge the point raised by Deputy Young which is quite valid and, of course, we should always keep all Regulations under review and I maintain the proposition.

**The Deputy Bailiff:**

The Regulations are proposed in Third Reading. The appel has been called for and I ask the Greffier to open the voting.

<b>POUR: 40</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 1</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		Deputy T.M. Pitman (H)
Senator A. Breckon		Deputy S. Pitman (H)		
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				

Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**The Deputy Bailiff:**

We now come to the Draft Social Security (Amendment No. 21) (Jersey) Law 201-. It is a law lodged by the Minister for Social Security.

**LUNCHEON ADJOURNMENT PROPOSED**

**Senator P.F. Routier:**

The Minister for Social Security has indicated that it might be a good time to adjourn for lunch. I think this might be a long debate.

**The Deputy Bailiff:**

Do Members wish to adjourn? The States will adjourn now until 2.15 p.m. this afternoon.

[12:37]

**LUNCHEON ADJOURNMENT**

[14:13]

**3. Draft Social Security (Amendment No. 21) (Jersey) Law 201- (P.139/2013)**

**The Deputy Bailiff:**

We now resume Public Business with P.139, the Draft Social Security (Amendment No. 21) (Jersey) Law lodged by the Minister for Social Security and I ask the Greffier to read the citation of the draft.

**The Greffier of the States:**

Draft Social Security (Amendment No. 21) (Jersey) Law, a Law to amend further the Social Security (Jersey) 1974 and, consequentially, the Income Tax (Jersey) Law 1961. 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?

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

Yes, thank you. Most of the legal changes necessary to create the new long-term care contribution are included in the Draft Social Security (Amendment of Law No. 6) (Jersey) Regulations which were debated in P.138/2013. However, there are a number of issues that cannot be dealt with through the Regulation-making powers of the Social Security Law. This amendment to primary legislation deals with 2 specific issues. It allows future changes to the long-term care contribution mechanism which is set out in Article 49B of the Income Tax Law to be amended by Regulations brought under the Social Security Law. It also introduces a surcharge mechanism for the long-term care contributions in line with the existing surcharge mechanism imposed on late payments of income tax liability. For the benefit of Members, I would just remind them that the income tax surcharge is 10 per cent of the amount unpaid of tax due which has not been paid by 6.00 p.m. on Friday following the first Monday in December. The efficient joint collection of income tax liability and long-term care contribution liability is facilitated by a single approach in as many operational areas as possible. I make the proposition.

**The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the principles? All Members in favour of adopting the principles, kindly show? Those against? The principles are adopted. Minister, are you going to propose the Articles *en bloc*? Do you wish to say anything?

**3.2 Senator F. du H. Le Gresley:**

The Articles are very straightforward really. Article 1 is an interpretation provision. Articles 2 to 4 amend the Social Security Law to allow the surcharge or amend an existing surcharge which I described in the principles. Article 5 amends the Income Tax Law to allow the long-term surcharge to be collected and Article 6 provides the citation and commencement and I propose the Regulations.

**The Deputy Bailiff:**

Are the Articles seconded? **[Seconded]** Does any Member wish to speak? Deputy Young?

**3.2.1 Deputy J.H. Young:**

I just wish to express a contrary view about the need for surcharge. I have always thought that this particular provision is very unfair on the income tax side and I am having a struggle to see a case for extending it here. Here we are talking about pensioners because they are the ones that are going to be making 6-monthly contributions and the ones that are late. Everybody else will be paying through I.T.I.S. so I certainly would want to record my dissent to that. I really do not see why it is necessary. The monies generated are not that great and why do we need to use the big stick here, particularly at the start of a scheme? I really have great concern about that.

**The Deputy Bailiff:**

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

**3.2.2 Senator F. du H. Le Gresley:**

The fact is that any amount of under £50 is waived that is outstanding. The amounts that will be levied, particularly for pensioners on the margins of the income tax thresholds, will be relatively small at 1 per cent and, in any event, the right of appeal would be to Social Security, not to the Tax Commissioners and I am sure we would take all circumstances into account and I maintain the Regulations.

**The Deputy Bailiff:**

All Members in favour of adopting the Articles, kindly show? Those against? The Articles are adopted. Do you propose the law in Third Reading?

**Senator F. du H. Le Gresley:**

Yes.

**The Deputy Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those Members in favour of adopting the law in Third Reading, kindly show? Those against? The appel is called for, probably just in time. I would ask Members to return to their seats and I ask the Greffier to open the voting on the adoption of the Social Security (Amendment No. 21) Law in Third Reading.

<b>POUR: 34</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Connétable of St. Lawrence		
Senator A. Breckon		Deputy J.H. Young (B)		
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisser (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

#### 4. Draft Long-Term Care (States Contribution) (Jersey) Regulations 201- (P.140/2013)



**The Deputy Bailiff:**

We now come to the Draft Long-Term Care (States Contribution) (Jersey) Regulations, P.140/2013, lodged by the Minister for Social Security and I ask the Greffier to read the citation of the draft.

**The Greffier of the States:**

Draft Long-Term Care (States Contribution) (Jersey) Regulations. The States, in pursuance of Article 2(2)(b) of the Long-Term Care (Jersey) Law 2012, have made the following Regulations.

**The Deputy Bailiff:**

Minister, do you wish to propose the principles?

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

The addendum to P.140/2013 that was issued provides a detailed analysis of the departmental budgets in respect of the existing long-term care provision and identifies the proportion of these budgets that will be transferred into the fund in 2014 and 2015. In summary, the States already support some long-term care costs at a total cost of about £28 million a year and most of these budgets from the Health and Social Services Department and the Social Security Department will be transferred into the Long-Term Care Fund on an annual basis. These Regulations define the States' contribution payable from 2016 onwards. In terms of the impact on the budgets for the 2 departments during 2014, this will enable the amount of the States' contribution to be known in time to be included in the next Medium-Term Financial Plan. The total amount of the States' contribution into the Long-Term Care Fund in 2016 and future years is based on the value of payments made into the Long-Term Care Fund in 2014 in 3 separate areas. Firstly, the reduction in the Health and Social Services Department's expenditure as the department will be purchasing much less long-term care from the private sector and the charitable sector; secondly, the increase in the Health and Social Services Department's income that the Health and Social Services Department will receive in respect of the long-stay charges made in respect of long-term care it provides directly in their homes; the reduction in the Social Security budget as it will be providing means-tested assistance to a much smaller number of individuals through Income Support in relation to its tax-funded budgets. This contribution will be maintained in real terms with the amount adjusted in line with the change in R.P.I. The key point here is that as care costs are expected to increase faster than R.P.I., the Long-Term Care Fund will bear these additional costs in future years, removing the pressure on tax-funded budgets to meet this growing expenditure. The addendum to P.140/2013 also provides details of the allocation of Social Security Department underspends into the Long-Term Care Fund to allow long-term care benefits to be available from July of next year in advance of the long-term care contribution being collected at 1 per cent in 2016. These amounts already sit within the Social Security Medium-Term Financial Plan allocations. The details of all these payments have been agreed with both the Minister for Health and Social Services and the Minister for Treasury and Resources and I am very grateful to my colleagues for their assistance in agreeing the funding for the Long-Term Care Fund and to all officers in all 3 departments for the very detailed checking and calculations that substantiate these final numbers. I make the proposition.

**The Deputy Bailiff:**

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

**4.1.1 Deputy J.H. Young:**

I wonder if I can ask the Minister for Social Security to clarify. As I understand it, this is basically to transfer monies which are going to be saved by the Health and Social Services Department who

are planning to put up the current charge of £474 per week for a long-stay patient to £640 to £1,240 under this plan. Obviously that is going to be a substantial saving. Could I ask for clarification please? Is this going to be an annual calculation or are we going to have to have a set budget in which to fit in those people that fall within the long-stay categories for patients? Secondly, is there somewhere available a definition of what is a long-stay patient? I have in mind the case that I am aware of a person of younger years who went away for treatment only to be sent back with a terminal illness and obviously needed to be cared for. That particular person was presented with a form to sign to say that they would be transferred to a private clinic and they are to pay for it. This was in the hospital. So I wonder are we going to have an annual calculation, is there going to be some annual process to determine which of those cases are included in these calculations and whether there are any criteria or is this just a fixed sum that we have to work within now?

#### **4.1.2 The Deputy of St. Ouen:**

Could the Minister for Social Security also confirm whether or not once the care levels have been established and the funding available, whether or not Family Nursing and Home Care will be paid for care provided within the home environment?

#### **4.1.3 Senator A. Breckon:**

I will be voting against this and the reason is I did try to amend it so that the States' contribution was the Retail Price Index plus 1 per cent and when looking at it, I do not think I can split that out in Regulations 2 and 3 and the only way I can do that is to vote against the whole thing.

#### **4.1.4 Deputy T.A. Vallois:**

Just going through the addendum to P.140/2013, with regards to the costs in the existing budgets and the impact of the L.T.C. scheme. I wonder if the Minister for Social Security could just explain why we are not able to have any actuals on the H.S.S.D. (Health and Social Services Department) budgets to identify the current unit costs in terms of long-term care provided under the H.S.S.D. at the moment and we are only being provided with estimated budgets and whether we could possibly have in the near future the actual unit costs for that in H.S.S.D.?

#### **The Deputy Bailiff:**

Does any other Member wish to speak? I call on the Minister for Social Security to reply.

#### **4.1.5 Senator F. du H. Le Gresley:**

In response to Deputy Young, the calculation for the transfer which will be from the Consolidated Fund going forward from the new Medium-Term Financial Plan will be based on the half-yearly figures of the contribution made by the Social Security Department and the Health and Social Services Department in 2014 so that 6-month figure will be multiplied. Any adjustment which is reflected by the costs during 2015 will also be adjusted and the final figure will be used going forward in the Medium-Term Financial Plan and will only change in relation to R.P.I. so there will be no more changes to that figure unless the States should decide to increase it in a new proposition. The definition of a long-stay patient, I have not got the law quickly in front of me, but I think when we come to the Hospital Charges Law, the definition of a long-stay patient is defined in the Hospital Charges Law. The Deputy of St. Ouen wanted to know if Family Nursing and Home Care would receive money from the Long-Term Care Fund by way of payment for services provided. Certainly as long as the person receiving care in their own home qualifies for long-term care benefit, that money can be directed obviously to pay for services such as those provided by Family Nursing and Home Care so that would be a new source of income over and above the income already received through subscriptions, *et cetera*, to Family Nursing and Home Care. Deputy Vallois wanted to know about why we are still using estimated budgets. I think that the addendum that we provided shows the extent of work that has gone on to arrive at these figures.

We still have to put that caveat of estimate, but I am reasonably confident, given all the work that has been done, that these figures are accurate and they will not change very much if at all when we make final transfers. I hope that responds to the questions I have been asked and I maintain the principles.

**The Deputy Bailiff:**

All Members in favour of adopting the principles kindly show. The appel is called for. I invite Members to return to their seats and ask the Greffier to open the voting. The vote is on the principles of the Long-Term Care (States Contribution) (Jersey) Regulations.

<b>POUR: 37</b>		<b>CONTRE: 6</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator A. Breckon		
Senator S.C. Ferguson		Deputy R.G. Le Hérisssier (S)		
Senator B.I. Le Marquand		Deputy G.P. Southern (H)		
Senator F.du H. Le Gresley		Deputy of St. Ouen		
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator L.J. Farnham		Deputy J.H. Young (B)		
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
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)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**4.2 Senator F. du H. Le Gresley:**

I would like to propose the Regulations *en bloc*. There are really only 3 Regulations which are relatively straightforward, 4 including the citation. Regulations 1 to 3 set out an obligation on the

States to contribute annually to the cost of long-term care and set out how the States' contribution will be calculated in 2016 and 2017 and ensuing years.

[14:30]

Regulation 2 provides the calculation for the States' contribution for 2016 based on the changes in department budget for both the Health and Social Services Department and the Social Security Department in 2014. As this figure is being used to set a 2016 value, it is up-rated by the change in R.P.I. over the next 2 years. Regulation 3 then carries forward the States' contribution for the rest of 2016 to 2018 in the Medium-Term Financial Plan and explains how the R.P.I. indicator is set at the beginning of each new Medium-Term Financial Plan. This will be the March R.P.I. figure. The final regulation, Regulation 4, provides the citation and commencement. So I propose the Regulations.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on the Regulations? The appel is called for. Members return to their seats. I ask the Greffier to open the voting.

<b>POUR: 39</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator A. Breckon		
Senator S.C. Ferguson		Deputy G.P. Southern (H)		
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
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)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				

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

**The Deputy Bailiff:**

Do you propose the Regulations in Third Reading, Minister?

**Senator F. du H. Le Gresley:**

Yes, Sir.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All Members in favour of adopting the Regulations in Third Reading kindly show. Against. The Regulations are adopted.

**5. Draft Long-Term Care (Health and Social Services Charges) (Jersey) Law 201-(P.141/2013)**

**The Deputy Bailiff:**

We now come to the Draft Long-Term Care (Health and Social Services Charges) (Jersey) Law 2013 or 2014, P.141, lodged by the Minister for Health and Social Services, and I ask the Greffier to read the citation draft.

**The Greffier of the States:**

Draft Long-Term Care (Health and Social Services Charges) (Jersey) Law. A law for the charging of fees for long-term care services, the provision of which is administered or arranged by the Minister for Health and Social Services and for related purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council have adopted the following law.

**The Deputy Bailiff:**

Minister, I am so sorry for nearly depriving you of your moment in the sun.

**5.1 Deputy A.E. Pryke (The Minister for Health and Social Services):**

I would not be surprised at that; and just to show that we do work very well together, the Minister for Social Security and myself. As my colleague the Minister for Social Security set out in his speech on P.99, the successful introduction of the Long-Term Care Scheme requires the introduction of this new law, a Long-Term Care (Health and Social Charges) (Jersey) Law. The current Hospital Charges (Long Stay Patients) (Jersey) Law 1999 restricts the services that my department can make charges for and it is discriminatory as it only applies to people who are aged 65 or over. This new law will treat all adults fairly, align the definition of long-term services within the Long-Term Care Law and allow the Health and Social Services Department to charge for the full range of long-term care services. The actual charges to be levied by my department for long-term care services will be set out in the Ministerial order. In light of this close relationship between the provision of long-term care services by the Health and Social Services Department and the payment of long-term care benefits, the proposed law requires the Minister for Health and Social Services to consult with the Minister for Social Security before setting or amending these charges. At the moment the most that the Health and Social Services Department can charge for long-term care either provided by the department or purchased from a private sector is £474.81 a

week. This applies even if the person involved has the financial resources to pay more. By contrast, someone with the same level of care needs and the same financial resources who arranges their own placement not through the Health and Social Services Department is expected to meet the full cost of their care themselves, which is likely to be well over £1,000 a week. As you expect, this disparity is clearly unfair. This new law creates a level playing-field between those placed in long-term care beds by the Health and Social Services Department and those who are not. The arbitrary nature of the current law extends to the fact that the Health and Social Services Department can only charge those aged 65 or over. So if you are aged 64 and go into the Health and Social Services Department's long-term care currently you do not even pay the heavily subsidised £474.81 a week. This is being remedied under the new law so that everyone over the age of 18 can be charged for the same care. In summary, the new law creates parity between those placed in long-term care beds and those who are not. Under new long-term care the standard costs will be based on the needs of the individual, irrespective of the service being provided by the public or private sector. While those who can afford to do so will pay more realistically to stay under the Health and Social Services Department's sponsored long-term care; those with more limited means will always be able to access financial support if they need it. I would like to reassure Members that these changes have no bearing on other services provided by the Health and Social Services Department. It only applies to the provision of long-term care as defined in this Long-Term Care Law. Anybody receiving long-term care will continue to be able to access other hospital treatments as they may need from time to time within the same rights as the general population. I would like to repeat the assurances offered by the Minister for Social Security and to reassure Members that while the Health and Social Services Department will now be able to charge people an appropriate rate which is based on their need and not age, it does not mean that the Health and Social Services Department will suddenly have a cash windfall. The increased income will be paid across to Long-Term Care Funds. This will be reviewed and audited by the Treasury. I move the principle.

**The Deputy Bailiff:**

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

**5.1.1 The Deputy of St. Ouen:**

Following the response perhaps quite unsatisfactory from the Minister for Social Security, could the Minister for Health and Social Services confirm whether or not Family Nursing and Home Care will be able to levy fees in line with the long-term care benefits?

**5.1.2 Deputy J.H. Young:**

I wonder if the Minister for Health and Social Services could clarify. I can see that the definition under this law of Long-Term Care Services included providing a person help with activities an essential part of normal daily living such as bathing, dressing, grooming, eating and so on. Is it right that this new increase, these very substantially increased charges will affect such groups of patients which at the moment are accommodated within our hospital; for example, people who have had physical injuries that need periods of rehabilitation in order to be able to get them back in normal life; people suffering from alcohol and drug dependencies which are undergoing programmes to deal with that dependency; mental health where people are hospitalised either voluntarily or by sectioned orders where they are retained in a mental health hospital and/or the people that come back to the general hospital, as in the case I described earlier whose condition is terminal? Can I hear from her whether or not it is proposed that those people now will have those charges increased from £471 where those charges are able to be levied, up until the new figures which, of course, I point out that, due to the new arrangements, they will of course need to meet the first £50,000 of those costs on their own before they can make a claim under this scheme. So I

would like to have the Minister for Health and Social Services' comments, because if that does include those groups, then it is such a swingeing change I would be very concerned about it.

**The Deputy Bailiff:**

Does any other Member wish to speak? I call on the Minister for Health and Social Services to reply.

**5.1.3 Deputy A.E. Pryke:**

Regarding family nursing services, there will be a provider and the money will go to the care at home and the family and patient can assess whatever needs that are required. Regarding Deputy Young, the definition is there. Suffice to say that everybody is assessed on the long-term needs. You mentioned about return back to Jersey for end of life, they will fall under the end of life care pathway. Those with drug and alcohol, they may have perception of long-term needs, but they are not classed as long-term under this definition. It is those needing long-term care needs and assessed. Those like Rosewood House, Clinique Pinel, they have been assessed. They are assessed by social workers as long-term care; they will fall under this scheme.

**Deputy J.H. Young:**

Can I ask also: does that cover mental health patients and those recovering from physical injury?

**Deputy A.E. Pryke:**

Those under mental health, if they are not classed and fall into the bracket of long-term care are the ones that we place outside Jersey; they do not fall under this bracket. The ones in rehabilitation like at Samares Ward, they do not fall immediately under this bracket; but if their needs are such that into the future they will need long-term care, then those needs will be assessed at the time.

**The Deputy Bailiff:**

The debate on the principles has ended. All those Members in favour of adopting the principles kindly show. Those against. The principles are adopted. Do you wish to propose the Articles *en bloc*, Minister?

**Deputy A.E. Pryke:**

Yes, Sir.

**The Deputy Bailiff:**

Do you wish to add anything to that?

**5.2 Deputy A.E. Pryke:**

Not really. I think it is all self-explanatory. Article 1 is interpretation of the long-term care definition which we have just spoken about. Article 2 is to allow the Minister for Health and Social Services with consultation with the Minister for Social Security to set the charges for long-term care by order. Article 3 allows the Minister to recover any charges as a civil debt. Article 4 repeals the Hospital Charges (Long Stay Patients) (Jersey) 1999 Law. Article 5 provides the citation and the commencement.

**The Deputy Bailiff:**

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

**5.2.1 Deputy J.H. Young:**

I would like to follow up my earlier point. Article 2 does give power to the Minister for Health and Social Services to make orders to specify the charges that may be described and to specify the

different particular long-term care services that may be included within those charges, such as, for example, the matters I raised, those 4 specific cases. But of course there may be others. If I heard the Minister for Health and Social Services correctly, I think that she said that where somebody is receiving treatment under mental health off- Island, that is not included. I do not think she covered in the Island. In any event I suppose my bigger point is if somebody wishes to disagree with the definition of whether or not this is a hospital service or long-term care service, where is the power of appeal in this law? Where do they go to have their position independently assessed?

**5.2.2 The Deputy of St. Ouen:**

Again just very quickly, regarding the definition of long-term care services, could the Minister for Health and Social Services confirm whether or not end of life care services as at such a stage provided by Jersey Hospice would equally be able to access the benefits that are currently being discussed?

**5.2.3 Deputy M. Tadier:**

Can I just ask something that arose out of Deputy Young's question earlier about when long-term mental health care becomes long-term care? So if someone is admitted to Orchard House, for example, and that becomes indefinite, would they qualify under this scheme? If not, why not?

**The Deputy Bailiff:**

Minister, would you like to reply?

**5.2.4 Deputy A.E. Pryke:**

Going back to Deputy Young, just to reassure him and to pick up the point that Deputy Tadier said about mental health, those patients admitted into Orchard House, it is an acute mental health setting; so they would not be assessed for long-term care. The long-term care wards are Clinique Pinel and Rosewood House.

[14:45]

There is an appeal system, and there will be. There is a well-routed appeal system within the Health and Social Services Department under the auspices of my Assistant Minister. End of life care does not fall into this, because end of life care has its own definition and this is where you are talking here about long-term care and not palliative care or end-of-life.

**The Deputy Bailiff:**

All Members in favour of adopting the Articles kindly show. The appel is called. I ask Members to return to their seats. The vote is on whether to adopt Articles 1 to 5 of the Long-Term Care (Health and Social Services Charges) (Jersey) Law. I ask the Greffier to open the voting.

<b>POUR: 37</b>		<b>CONTRE: 6</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy of St. Ouen		
Senator S.C. Ferguson		Deputy S. Pitman (H)		
Senator B.I. Le Marquand		Deputy M. Tadier (B)		
Senator F. du H. Le Gresley		Deputy T.M. Pitman (H)		
Senator I.J. Gorst		Deputy J.H. Young (B)		
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				



Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**The Deputy Bailiff:**

Do you propose the law in Third Reading?

**5.3 Deputy A.E. Pryke.**

Yes, Sir.

**The Deputy Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading?

**5.3.1 Senator F. du H. Le Gresley:**

I just wanted to take this opportunity to thank the Minister for Health and Social Services for her co-operation all the way through the development of long-term care and in presenting this piece of legislation to the Assembly.

**5.3.2 Deputy J.H. Young:**

A very brief question. I was pleased to hear that there is an appeal provision by the Assistant Minister. I just ask why it does not appear in the law.

**The Deputy Bailiff:**

We are rather past that. We have adopted the law and it is a question of a debate in Third Reading. Does any other Member wish to speak in Third Reading? All Members in favour of adopting the law in Third Reading kindly show. Those against. The law is adopted.

**6. Draft Long-Term Care (Residency Conditions) (Jersey) Regulations 201- (P.136/2013)**

**The Deputy Bailiff:**

We come next to the Draft Long-Term Care (Residency Conditions) (Jersey) Regulations, P.136, lodged by the Minister for Social Security. I ask the Greffier to read the citation draft.

**The Greffier of the States:**

Draft Long-Term Care (Residency Conditions) (Jersey) Regulations. The States, in pursuance of Articles 3 and 16 of Long-Term Care (Jersey) 2012, have made the following Regulations.

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

As I set out in my speech on P.99, to qualify for support under the Long-Term Care Scheme individuals would have to meet a residency condition. This is the same as was originally proposed in 2011 and the Minister for Social Security at the time made a commitment that the residency conditions would be a matter of regulations to be agreed by this Assembly. P.136 makes clear that to be covered by the scheme individuals have to have been ordinarily resident in Jersey either for 10 years continuously immediately before applying for benefit, or 10 years continuously as an adult in the past, and another year immediately before applying. These rules are intended to protect the integrity of the new Long-Term Care Fund to which Jersey residents will have contributed. The Long-Term Care Benefit that someone could receive through the scheme would run into hundreds of pounds a week and we have to be absolutely sure that this is only paid to those who have shown some commitment to the Island. The residency test I am proposing would ensure that individuals are likely to have made a reasonable contribution to the fund through earnings or other income, and that an individual is less likely to return to Jersey specifically to apply for the Long-Term Care Scheme. As we know, over these 10 years they may also have made contributions to the Island's life in other ways. For applicants below the age of 28, the test is modified so that they will need to have been ordinarily residents continuously in Jersey for a period of 10 years at any age. This ensures that local children who grow up with a serious disability will be eligible for the Long-Term Care Scheme from the age of 18 onwards. Children with long-term care needs up to the age of 18 are already supported by the Health and Social Services Department. Also covered by the modified test are young adults under 28 who may have had a serious accident or illness that needs them needing long-term care for the rest of their life. To ensure consistency with the approach taken to older adults, this residency condition must be met immediately preceding the application. Otherwise they must be ordinary resident for a further year before becoming eligible. I make the proposition.

**The Deputy Bailiff:**

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

**6.1.1 Deputy J.A. Hilton:**

Just briefly. From some of our earliest briefings with the Minister for Social Security, I have brought up the fact that you only have to be resident in the Island for 10 years and to live here for one year prior to submitting a claim for long-term care. My concern lay around, as sometimes some countries suffer with people using jurisdictions for health tourism reasons, I have concerns that there may be individuals who have lived in the Island previously for 10 years. No, it was not people who had lived in the Island previously for 10 years, it was people retiring to the Island at age 65 and living here for 10 years and then being in a position that they could access the Long-Term Care Fund. I know the Minister for Social Security believes that this is unlikely to happen, but I think that it can happen; it will happen. So I am requesting that the Minister in future monitors individuals who are claiming under long-term care to identify if that problem is occurring. It is the issue of people retiring here aged 65 who could live here for 10 years and then qualify for

means-tested benefit, having not contributed financially to the Island at all. So if he could just assure me that the department will monitor those figures.

### **6.1.2 Deputy J.H. Young:**

I am sorry to have to keep coming in, but I feel that 7 new laws should not just be rubber-stamped without querying. I have concerns over this, because we now have a definition of ordinary residents under Social Security which is quite specific: 10 years in Jersey, and one year prior to claim. I think the actual position is that the clock does not start on the £50,000 that claimants have to pay out of their own resources first until the expiry of a year. I think it is more than a year, and I think on the average rates of cost likely to be another 18 months at least. I think we have a specific definition here, and I am very troubled about all the sort of different circumstances that can apply to people who leave the Island later in life for all sorts of family or employment purposes. Of course, we have another definition of what is ordinary resident in the Income Tax Law. As I understand it, in the Income Tax Law a person who is ordinary resident is deemed to be an ordinary resident if they have a property here and they effectively pay tax here. Are we going to have conflict between these 2 laws? Surely there should be some right that if somebody pays the 10 years or lives there a large amount of their working life and pays contributions, if they have to go away for family reasons or whatever, they can maintain their contributions in Jersey to prevent themselves having to exit those rights. I think this is not a question of tourism, people taking advantage. There are loads of family circumstances that can cause people to go away. There might be serious illness of family members with grandchildren or children overseas that require it, and I would like to feel a little bit more flexible rather than this very clear-cut simple definition. I do not see an appeal provision here. I would very much like to feel that where there is some discretion and some processes where the circumstances can be looked at more thoroughly. So I have question marks over this and I am going to listen to what the Minister for Social Security says in reply.

### **6.1.3 Deputy M. Tadier:**

I also have concerns and I think I accept that there needs to be some kind of test here which is met, but there could be problems in both senses. For example, the first question I would ask is, is this retrospective in the sense that if somebody has already accumulated their 10 years as of now but does not live in Jersey, could they come back at a future date and then within that 12 months or even within a 3 or 4-year period need that L.T.C. care and be claiming even though they have not paid into the pot? I think the answer to that has to be yes because we have decided it is not a contributory scheme *per se*; it is a scheme where the payout is not related to how much you pay in if at all. The question I would ask: would it not be better to also have provision in there which says you must have contributed a minimum amount to the scheme in conjunction with those other provisions? But I can also see issues, for example, because individuals do travel. We live in an increasingly globalised world, and one can consider oneself a Jersey resident, a local if you like, but nonetheless your job takes you abroad for whatever reason. It may be to do with if you are an academic, and I know there is at least one individual in the States who has travelled abroad to do with educational purposes. There may be engineers who get called away for 3 or 4-year periods in our Islands but who nonetheless call Jersey home and may only accrue 8-year residences, come back for 2 years and then do another 8 years. I know there are provisions elsewhere to do with the housing entitlement and employment entitlement which says that you can now accrue your Jersey residency, and I would ask why that is not being mirrored in this law for consistency purposes. Because I fear in the future, and I know it is already happening; we get all sorts of appeals and people who say: "The spirit of the law is being met here, but in practice because of the application of the law I am being hard-done by." It is really just to flag up those issues for Members because I think we will have to deal with that if we are still here in the future.

### **6.1.4 The Connétable of St. John:**

Going on from what has come through the back of my mind after hearing the previous speaker. Armed forces: how will we cater for them, because we have members who are Islanders who go off and have a career in the armed forces and then they return with their family to the Island? Could the Minister for Social Security cover that in his response, please?

#### **6.1.5 Deputy J.A. Martin:**

It carries on the same theme. I have not really spoken in any of the other debates and I do think my worry is we are well ahead of the game. But who can join our game? We do not know what we do not know. We stopped housing qualifications in 1979 and did not reintroduce them until about 14 years later. But people still stayed and did their 14 years, and they are entitled to this scheme. I do not have necessarily a problem with that, but it is the numbers we do not know. Earlier somebody overheard me saying: "Oh, but they would have to do a year before they come back." The point being, if you are looking around you know you have done your 10 years, even if you have contributed and you probably would have done 30 years ago and you are looking to somewhere to retire, you may be still in a property where you are. This scheme is ahead of its time in lots of European countries, definitely the U.K; I was trying to catch up very quickly. I, like Deputy Hilton, it is not just people who come back to retire. We do not know. There are thousands of people who have done 10 years in Jersey already. I am not saying they are all going to come back. I hope this law and the numbers and the statistics have not been built by hoping that they do not come back because a few hundred either way will skew the numbers but we could be talking about a thousand. I do not want to put a damper on it but I do hope ... We found this out with Income Support and residential care, lots of people were taking advantage because it was just residency and not confusion and that is an argument. People behind me are saying that if people have paid contributions they should be able to take them with them, move them around. Lots of places you cannot do that. We are asking youngsters now who are in the tax bracket to contribute something, 40, 50 and they will be working into their 70s and making sure that fund is okay for them because most of us, looking around here our age, except for a couple of people, we are all right, Jack, because there should be enough money in there to pay out for us.

[15:00]

But it is a long-term care fund and what we do not know, and that is what I would like to hear from the Minister, is that monitoring this very, very carefully, that we do not get an influx of people who are quite rightly entitled by the way the scheme is built, because of the numbers we do not know. Other than that, I am in full support and, as I say, we are ahead of our time. Just let us hope that not too many people find out about that and come and take advantage of it.

#### **The Deputy Bailiff:**

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

#### **6.1.6 Senator F. du H. Le Gresley:**

I would like to draw Members' attention to the fact that we have Income Support and the eligibility for Income Support is 5 years continuous residence or 10 years in the past. There can be situations under Income Support - I do not have all the rules in front of me - where periods of absence are allowed in certain conditions. The situation is that if somebody returns to the Island who spends 5 years here, they will be eligible for help with their long-term care costs but it will not come out of the long-term care fund. It will be funded by taxpayers and the disregard will be the current Income Support disregard, which may increase in time but at the moment for a couple it is about £22,000. These people who have been back 5 years or whatever who do not have perhaps their complete period of 10 years in the past will still get some help if the means test will be much lower disregard and the funding will come from taxation. A number of people have asked the question about appeal rights and I would point out that, of course, we are building here on the Long-Term

Care Law itself, the law that we hope to have the Appointed Day Act shortly. In the Long-Term Care Law under Article 8, paragraph 3: “The Minister shall, by order, make such provision as he or she thinks fit in relation to considerations by a determining officer or a tribunal of any matter concerning a claim and payment of benefit and that, by order, also determine the procedure for appeals to a tribunal and, finally, to the Royal Court on a question of law.” There are appeal rights in the original Long-Term Care Law that we have already proved back in 2011 and which, of course, backs up these Regulations that we are now dealing with today. The Constable of St. John asked me about the armed forces. He would be pleased to know that I am currently working on a consultation to see whether the armed forces, returning army personnel or people anyway who have served in the forces ... This particularly relates to people who have done service through the Territorial Army. But, in any event, I do believe that if somebody has been posted overseas for any length of time, this is a situation that, by order, we could allow that person, if they have Jersey roots, to come into the scheme should it be necessary. That would have to be done by order but it is something that ... we have to remember that a lot of this scheme is going to be delivered by order and that we are today debating either primary law changes or regulations but the actual production of the final scheme will be by order. Deputy Martin is absolutely right, we do need to monitor this. We need to monitor very carefully the take-up of the scheme. Of course, as I said in the main debate, we have all these triggers. We have triggers regarding freezing the amount of the benefit. There are things in this scheme that will enable us to control costs but the eligibility, if we decide that 10 years, perhaps 20 years down the line is too generous, we can look to increase that but that would be with the approval of the Assembly because it would be a change to regulations. With that I hope I have answered the questions, which were good questions and I thank Members for those. I maintain the principles.

**Deputy M. Tadier:**

Sir, just one clarification, the Minister for Social Security answered the Constable of St. John that there could be a carve out in future for armed forces. He did not talk about other individuals who may be called to work abroad for professional purposes and how an aggregate might be applied to those.

**Senator F. du H. Le Gresley:**

I think I did cover that by virtue of the fact that there is an appeal right for anybody who feels they should be eligible for this benefit. That appeal would be heard by a tribunal, certainly by determining officers first. If they are not happy with the outcome of that they would go to a tribunal. If they were to be refused by the tribunal, the Royal Court would have to rule on a point of law, so there is an opportunity. But, we have to accept that we start with the baseline of 10 years’ continuous residence and that is the eligibility of the scheme. Once you are in the scheme the benefit has other conditions. I cannot answer the Deputy’s question as clearly as he would like, clearly, but this is a scheme in the same way as Income Support where the Assembly has decided that a period of 5 years is suitable for eligibility for Income Support. What we are asking today, and this is completely in line with the original law and the report that accompanied that law, that we would have 10 years’ continuous residence as an adult. I am introducing these Regulations and I am maintaining the position that was agreed by the Assembly in 2011.

**Deputy J.H. Young:**

Sir, clarification, if I may. The Minister for Social Security has given us an excellent answer, except he did not deal with the question of whether an order to qualify for residence under this law or regulations, whether or not people are able to maintain their contributions to the scheme in order to better maintain that residence if they are absent temporarily.

**Senator F. du H. Le Gresley:**

I apologise, I was writing furiously and I missed that point. There is no provision for paying long-term care contributions if you are not in Jersey. No, you have to be a taxpayer in Jersey because it is based on your tax returns. If you are not submitting a tax return you would not be making a long-term care contribution.

**Deputy J.H. Young:**

But, of course, you can pay tax in Jersey, even if you are substantially not resident, as long as you are not resident in the Island under the tax rules.

**Senator F. du H. Le Gresley:**

We did, in an earlier piece of legislation, point out that there are people who are not resident in Jersey who do pay tax in Jersey and they can have a carve out obviously for paying this long-term care contribution because if they are not resident here but happen to pay tax here there is no advantage to them to having to pay a long-term care contribution. On the reverse of that we can have people who live here and, if you remember when we discussed that regulation, their husband could be living elsewhere but the wife is resident in Jersey and she can pay long-term care contributions in Jersey.

**Deputy M. Tadier:**

Can we have the appel on each of the Regulations, please?

**The Deputy Bailiff:**

We have not come to the Regulations yet, we are still on the principles.

**Deputy M. Tadier:**

Oh, that is great. [Laughter]

**The Deputy Bailiff:**

All Members in favour of adopting the principles, kindly show. Those against. The principles are adopted. We now come to the Regulations. Minister.

**6.2 Senator F. du H. Le Gresley:**

I would like to propose the 4 Regulations together and just briefly describe what is in them. Regulation 1 sets out the residency conditions, which we have discussed. Regulation 2 sets out 2 situations where a person is not treated as being ordinarily resident in Jersey and these echo those that apply to Income Support. The first is where a period spent in detention following a sentence of imprisonment or youth detention. The time spent in detention does not count towards a residency condition but it does not create a gap in continuous residency. The second is where an individual is working in Jersey but employed by an employer from outside Jersey and paying contributions in that country. They do not build up years of residence towards the Long-Term Care Scheme and will not be making contributions into the fund. Regulation 3 recognises that some individuals have specialist long-term care needs that cannot be provided in Jersey. In this situation an off-Island placement will be provided, arranged and funded by the Health and Social Services Department. The time spent outside Jersey in these circumstances will continue to be included as ordinary residence in Jersey. This will allow the individual to satisfy the residence condition if it becomes possible to arrange care in Jersey at a later date. Regulation 4 is the citation and commencement. I propose the Regulations *en bloc*.

**The Deputy Bailiff:**

Thank you. Deputy Tadier.

**6.2.1 Deputy M. Tadier:**

There are some issues here and I am not saying that they are sufficient to throw these to vote against. Even if they were sufficient it does not mean that Members would vote against anyway. We have already discussed Regulation 1 about that. When it comes to prisoners, and it is not simply prisoners, anybody who is outside of the Island for a period of time and this is why I raised it. I alluded to the armed forces but there could be anyone outside of the Island unavoidably for a work purpose. You may have done your 8 years, you get called out of the Island for 2 years and that could be in the armed forces, it could be doing some work for Greenpeace or it could be something to do with lecturing in China for the finance industry perceivably or invariably even nowadays in Japan or China. One might well want to maintain one's eligibility for that scheme. We were told that because you are no longer paying tax in Jersey you cannot qualify because it is all done through the tax system, even though it is not a tax. But, we already know what the maximum contribution is for that, it is capped. I do not see why somebody who is working abroad should not be able to maintain that eligibility and say: "I am willing to pay into that scheme so that when I come back it does not lapse." Because, when you come back to the Island after doing your 8 years and another 2 years you then have to do another 10 years, so it means that you would have to do a total of 18 years to make up for the fact that you have left the Island for 2 years. It does not sound like the right type of message that we want to be sending out to professionals in our Island who are increasingly mobile but, nonetheless, may want to spend extended periods of their youth and of their more senior years in the Island. But when it comes to prison - it is a shame we do not have H.M. Attorney General or H.M. Solicitor General in here, although they may be available before we sum up this particular part - I know prisoners are never treated sympathetically necessarily by the electorate or by the Assembly. But there is a broader question to be asked here because, first of all, when you are put in prison for whatever reason we do have a Rehabilitation of Offenders Law and we do hope that once individuals come out, they may be in prison for a period of 2 years for whatever kind of offence, we hope that they reform themselves. They may, nonetheless, fall ill at a stage in their life. If they have income because it may be a white-collared criminal who gets sent to H.M.P. La Moye for ripping off elderly people by selling them dodgy financial products, they will still be getting income while they are in prison. The first question is, can they maintain their payment and will they still be charged this 1 per cent? We are told that people who are taxpayers in Jersey who are not resident in Jersey, therefore, cannot benefit from the scheme, will not be charged that 1 per cent, quite rightly. I would presume that anybody in prison who is not going to be able to use those 3 years to count towards their residency should automatically have that potential 1 per cent, or whatever it might grow to, not charged to them either for equity purposes. When it comes to Regulation 3 there is a carve out here saying that if a particular service cannot be provided for in the Island and we know that there are certain mental health provisions, although there may be others but, primarily, it seems to be mental health provision that is so specific that we cannot pay for it in a small island, that will be catered for. But what about freedom of choice? What if a Jersey resident, who has paid into the scheme all their life, in 20 years' time finds that they want to go abroad because the provision that they get abroad is better? Why should they not be able to use the Jersey scheme to pay for their health needs outside the Island? It does not seem particularly fair or equitable and it takes away a certain freedom of choice. Within this there is just broad considerations of human rights but also about what one would agree to be fair and reasonable. I think a lot of these Regulations, by the way that they are drafted, do not allow for these kinds of predicaments that can and I believe will arise. If they are not dealt with now I believe these Regulations will go through.

[15:15]

The Minister for Social Security and the Assembly and future Assemblies do need to be mindful of these issues because they could come back to bite us and we may well need to amend these things by order, preferably pretty quickly.

### **6.2.2 Deputy M.R. Higgins:**

I just want to speak very briefly. Just following up on Deputy Tadier's comments, something I feel very strongly about is you were talking about people who have been convicted of crimes. We have a Rehabilitation of Offenders Law and the idea is to bring them back into society. There are numerous laws that we pass and numerous policies that we pursue that were counter to that. We have a situation in the Island where we have a Rehabilitation of Offenders Law that is abused by probably 90 per cent of the companies who are in the Island because if a person has a spent conviction then by law they cannot mention it on an application form. But what firms are doing is sending these employees to the police station themselves and saying: "Go get your record, which will include spent convictions, and give it to us." If they do not return with it they would not even get an interview for the job anyway. Yet we also know there are many foreign nationals in this Island who are working in banks and other financial institutions where no criminal checks have been made on them because there is no ability to do so in Eastern Europe and similar countries and, therefore, we are discriminating against our own people. There are many people locally who cannot get a job simply because of the way employers are acting. In other cases people are getting employment and they could have been arrested for murder, rape or all sorts in the past in their own countries and we would have absolutely no knowledge whatsoever here. On this particular law we are imposing a double sentence on some people because what we are saying is, if they have been convicted: "Yes, you are going to jail, you are going to pay the price of your job for being in jail but, equally, you are going to have to do another 10 years to build up your rights to qualify under these schemes." I am sorry, yes, it is. The point is that I think that we have, as an Assembly, to start looking very carefully at the laws that we do pass and also start trying to enforce the ones we have because if these things are being abused we are creating a further problem in the future. I am just highlighting the fact that we are not always consistent in what we do.

### **6.2.3 Senator B.I. Le Marquand:**

I rise just to comment on Regulation 2 and I can see the difficulty that is faced by the system if this does not exist because I think what it is intended to avoid is the situation where somebody might come over to Jersey with a large quantity of drugs, be arrested on their arrival and then be sentenced to 16 years, which would mean they would serve a sentence of more than 10 years, thus qualifying for this without having ever put anything in. I can see that that is clearly undesirable and something we want to prevent. The difficulty I think that must have been faced by the departments will have been how they get the balance right here because, in theory I suppose, we might want them to prevent that but, on the other hand, not necessarily to prevent people who are sentenced for relatively short periods and who are local residents from being treated as being resident for that period. I think in practice I do not see a great difficulty here because most of the people who will qualify for their 10 years continuous are people who have been here for much longer. Because of the provision, which is in Regulation 2(1)(b), that although the period during which they are in prison does not count, it does not interrupt the tenure period. I think that may be a point that Deputy Higgins may have missed. It does not cause a situation in which the 10 years starts again, it just means that the 6 months or 9 months or 12 months or whatever they spent in custody one accepts. The other point that I note it does not deal with people who are in prison on remand, it is purely people who have been sentenced and, therefore, would only have been a part there. On balance I think this is right. I am not sure that in fact we could achieve, because of various different other principles, the situation in which we distinguished between people who had been here temporarily and people who had been here for a longer period. I am, on balance, happy with it.

### **Deputy M. Tadier:**



Sir, can I ask for clarification? Is the Minister for Home Affairs saying, therefore, that prisoners get preferential treatment to non-criminals who may want to leave the Island for the same length and period as a prison sentence who would then have to do their whole 10 years, whereas prisoners only have to do the remainder of their 10 years?

**Senator B.I. Le Marquand:**

That is the effect of this as I read it, yes.

**6.2.4 Deputy G.C.L. Baudains:**

I am slightly concerned about Article 1(b). I believe Deputy Martin raised it, the possibility of people coming back to Jersey in order simply to make use of this scheme. I realise it is probably an extreme example but if somebody lived and worked in Jersey from 18 to 28 and then left and worked 40 years in the U.K. or elsewhere, then realised that with a diagnosis that they are soon going to need long-term care, they could then come back to Jersey, stay here for 12 months, and make use of the scheme. I appreciate it is difficult to set the balance here, I am mindful of that but I am just not sure that it is set in the right place. I am not sure whether I am going to support this or not.

**The Deputy Bailiff:**

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

**6.2.5 Senator F. du H. Le Gresley:**

I think the key message that I need to explain perhaps in response to some of the people who have spoken is that the residency condition has nothing to do with eligibility once somebody starts to receive the benefit. Yes, people pay contributions but when it comes to claiming, the only thing we look at ... there is no contribution record for individuals, so we do not know how much one person has paid against another because we receive an amount of money every month from the Tax Office, has been collected on our behalf, a total sum. We have no idea who the contributors are. Unlike the Social Security Fund where we track people's contributions, we will not be tracking anybody's contributions. We will just be building up a fund. The only eligibility, which is what these Regulations are all about, is years of residence. You have to have 10 years of residence as an adult to be eligible for benefit. In the case of somebody serving a prison sentence, what basically happens is that the residency is paused. If they have been resident, for example, 5 years and they are then sentenced for 5 years, those 5 years in prison stops their residency but it only pauses it. When they come out and rejoin society, start working again, the 5 years then builds up to 6 years for the first year they are out of prison until they get to their 10 years. It is merely a pause. It does not mean that the whole thing is restarted. I think Senator Le Marquand, with all due respect, may have misunderstood what this Regulation 2 does. I would be very surprised if I have ...

**Senator B.I. Le Marquand:**

With respect, that is exactly what I said.

**Senator F. du H. Le Gresley:**

Right, sorry. I was writing so furiously I thought I wrote something differently. I do beg his pardon. But it is absolutely right then in that case, what the Senator said, that if somebody arrives on the boat and they are searched and they have drugs and they are sentenced to 10 years or more, that period in custody does not count in any way towards their residency. It is only when they are released, if they decide to stay here, will their residency period start. I think those are the points that need to be reiterated. Eligibility is based on residence, it is not based on contribution, which goes back to what Deputy Tadier was saying, people should be able to pay into the scheme if they go away for any lengthy periods. They cannot pay into the scheme, it is irrelevant because we do

not track their contribution records. It is pointless paying in because you are not here and you do not have a tax liability here. Why would you want to pay into a scheme when the period for eligibility is based on residence, not on contributions? I hope I have answered the questions. I realise there are a few concerns around the Chamber but I reiterate, these Regulations are following up on the 2011 debate. I have not changed them in any way. They are exactly as we debated in 2011 and I maintain the Regulations.

**Senator S.C. Ferguson:**

Can I ask for clarification, Sir? I am possibly being a little dumb but the Minister for Social Security said that it is based on residence but because it is paid to the Tax Department they do not know who has paid or have I misunderstood it? You have people who have a residence record but you do not, in fact, know whether they have paid the contributions? They could be living here and not paying. How is the Minister for Social Security going to check that people who have been resident have paid?

**The Deputy Bailiff:**

Minister, would you like to answer that?

**Senator F. du H. Le Gresley:**

The people who will be checking whether people who should be paying are paying are the Tax Office because the Tax Office have control of the information from tax returns to know whether somebody is eligible or liable to pay into the scheme. The tax office are working as agents for the Social Security Department and each month, as I said earlier, will pay us the money that they have collected in that month for long-term care contributions. The department will not know the makeup of that money, who it has come from at all. If there was any need for a cross-reference it would have to be back to the Tax Office to make sure that somebody has paid the long-term care contribution that they are liable to.

**The Deputy Bailiff:**

Deputy Young, you wanted to raise a point of clarification.

**Deputy J.H. Young:**

I just wanted to ask further clarification because the Minister for Social Security, in his answer, has opened up some of the points there saying that there is no record of people's contributions. I find that astonishing because income tax will be sending bills to all pensioners, they will know whether they have paid or not, there will be records kept at income tax. The other people will have I.T.I.S. bills. What I am failing to understand though is here we are passing a law and the Minister is saying that he cannot tell, for the purposes of residence under this law, whether people have had a contribution record. Is the Income Tax Department and the Social Security Department not going to talk to each other during this scheme?

**The Deputy Bailiff:**

Minister, could you clarify that?

**Senator F. du H. Le Gresley:**

I think people perhaps have a fundamental misunderstanding of what this Long-Term Care Scheme is all about. It is not about establishing a contribution record to receive the benefit. It is not about that. It is about collecting money through the Tax Department to pay into a fund so that when people need assessed long-term care there is a pot of money to fund it. Yes, Deputy Young is absolutely right, the Tax Office will be able to track and from their records of what people have paid, either through I.T.I.S. or by billing because the amount will have been included in the

calculation. What I stress is as far as my department is concerned we are not tracking people's contributions, we are only receiving money from tax who are acting as our agents.

**The Deputy Bailiff:**

Deputy Tadier, did you ask for each of these Regulations to be taken by appel separately, the vote to be taken ...

**Deputy M. Tadier:**

Yes, Sir, I do not need 4 taken as an appel but I will be asking for the appel on 1, 2 and 3.

**The Deputy Bailiff:**

If we take it on 1, 2 and 3 it follows I think we are going to take it on 4. **[Laughter]**

**Deputy M. Tadier:**

But I do not need the appel on 4, that is the point, Sir.

**The Deputy Bailiff:**

I see, thank you very much. The appel is called for in relation to Regulation 1. I invite Members to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 33</b>		<b>CONTRE: 9</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator S.C. Ferguson		
Senator A. Breckon		Deputy G.P. Southern (H)		
Senator B.I. Le Marquand		Deputy of St. Ouen		
Senator F.du H. Le Gresley		Deputy J.A. Hilton (H)		
Senator I.J. Gorst		Deputy S. Pitman (H)		
Senator L.J. Farnham		Deputy M. Tadier (B)		
Senator P.M. Bailhache		Deputy T.M. Pitman (H)		
Connétable of Trinity		Deputy M.R. Higgins (H)		
Connétable of St. Peter		Deputy G.C.L. Baudains (C)		
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy of Grouville				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

Deputy R.J. Rondel (H)				
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**The Deputy Bailiff:**

I now take Regulation 2 and ask the Greffier to open the voting.

<b>POUR: 34</b>		<b>CONTRE: 6</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy S. Pitman (H)		
Senator B.I. Le Marquand		Deputy M. Tadier (B)		
Senator F.du H. Le Gresley		Deputy T.M. Pitman (H)		
Senator I.J. Gorst		Deputy M.R. Higgins (H)		
Senator L.J. Farnham		Deputy J.H. Young (B)		
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

[15:30]

**The Deputy Bailiff:**

I come to Regulation 3 and I ask the Greffier to open the voting.

<b>POUR: 35</b>		<b>CONTRE: 6</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator S.C. Ferguson		
Senator A. Breckon		Deputy G.P. Southern (H)		
Senator B.I. Le Marquand		Deputy S. Pitman (H)		
Senator F.du H. Le Gresley		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy T.M. Pitman (H)		
Senator L.J. Farnham		Deputy M.R. Higgins (H)		

Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**The Deputy Bailiff:**

All Members in favour of adopting the fourth Regulation, kindly show. Those against. Regulation 4 is adopted. Can we now move the Regulations to the Third Reading?

**Senator F. du H. Le Gresley:**

Yes, sir.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any other Member wish to speak? All Members in favour of adopting the ...

**Deputy M. Tadier:**

The appel, Sir.

**The Deputy Bailiff:**

The appel is called for. The vote is whether to adopt the Long-Term Care (Residency Conditions) Regulations in Third Reading. I ask the Greffier to open the voting.

<b>POUR: 32</b>		<b>CONTRE: 10</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator S.C. Ferguson		
Senator B.I. Le Marquand		Deputy G.P. Southern (H)		
Senator F. du H. Le Gresley		Deputy of St. Ouen		

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

## **7. Draft Social Security (Hypothecs) (Jersey) Law 201- (P.137/2013)**

The Deputy Bailiff:

We come now to the Draft Social Security (Hypothecs) (Jersey) Law, P.137, lodged by the Minister for Social Security and I will ask the Greffier to read the citation of the draft.

### **The Greffier of the States:**

The Draft Social Security (Hypothecs) (Jersey) Law. A Law to make provision for debts arising under the Long-Term Care (Jersey) Law 2012 and the Income Support (Jersey) Law 2007 to be secured by hypothecs and for related purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

### **7.1 Senator F. du H. Le Gresley (The Minister for Social Security):**

An important aspect of the new Long-Term Care Scheme is an acknowledgement of the difficult position many elderly homeowners face facing substantial care bills who may be asset-rich but cash-poor. The Long-Term Care Scheme includes a generous disregard in respect of property and non-property assets of £419,000. Those with assets at or below this level would not need to use up their assets and after contributing their income, will be able to apply for means-tested assistance with their standard care costs and the minimum co-payment under the scheme. Those with property assets worth more than £419,000 and whose disposable income and cash savings are not sufficient to meet their share of the full cost of long-term care would be able to apply for an

interest-bearing loan secured against the value of their property. To facilitate this loan, a new form of property bond has been created, a new type of legal hypothec, which will mean a loan can be built-up and secured against the value of the family home minus the value of the property disregarded. This law creates the new legal hypothec. Repayment of the loan will generally be sought by the department when the property next changes hands, although repayment may be required sooner if the debtor comes into a significant amount of money. If an individual is in care and their partner remains living in the property, the loan will not be due for repayment until the partner moves out of the property or the property is sold. The new type of legal hypothec has the virtue of having a very simple registration process. It need not involve a lawyer, the individual does not need to go to the Royal Court and there is no stamp duty. There is an application fee of £80 but this will be met by the Long-Term Care fund. Once registered, the value of the outstanding debt will increase as the claimant continues to receive long-term care. The hypothec covers property that is owned individually or jointly by a claimant and their partner. Registration in the public registry means that anyone looking to purchase the property will be able to see that a charge is in place on the property. I make the proposition.

**The Deputy Bailiff:**

Is it seconded? **[Seconded]** Does any other Member wish to speak on the principles? Deputy Baudains.

**7.1.1 Deputy G.C.L. Baudains:**

I wonder if the Minister for Social Security could explain to me how this will work for somebody who may have both substantial property outside of the Island and possibly property within the Island as well.

**7.1.2 Deputy M.R. Higgins:**

Perhaps the Minister for Social Security can tell us what implications, if any, this has for people who have a life estate in a property? So in other words, they have the right to use the property until they die.

**7.1.3 Deputy J.H. Young:**

I wonder if the Minister for Social Security could tell us what is the situation if the properties being mortgaged, as it were, under this new device have already got first charges on them? Also, could the Minister tell us if he can guarantee that when those loans are fully repaid, somebody in the States will take responsibility for cancelling these hypothecs because it is not unknown for hypothecs to be sat around on properties way after they have been paid and not been cleared off the court records? So could he give that guarantee?

**7.1.4 Deputy S. Power:**

I wonder if the Minister could clarify as to how the department will deal with people aiming to reduce their fixed assets to the £419,000 disregard if perhaps they were to dispose of assets or cash or property to family members or others in the run-up to their need for care.

**7.1.5 The Deputy of St. Ouen:**

I presume this is the right time to mention it but in the Ministerial response to a Scrutiny Report on our recommendation R.5, which was prior to the implementation of the scheme, it should be made clear how much income the individual would be allowed to retain when their partner enters long-term care and the response was agreed and this information will be specified in Ministerial orders. Perhaps the Minister, rather than let us second-guess what is coming around the corner, might give us an indication of what his thinking is on the matter. Thank you.

### **7.1.6 Senator S.C. Ferguson:**

As I have intimated earlier today, I have a number of cases where the husband has become disabled at a young age and there have been problems with property bonds up until now. What will be the position of such a couple with regard to this particular property bond that is proposed?

### **7.1.7 Deputy M. Tadier:**

It is simply to note that with this proposition it should be commended that the human rights notes have been included in this, and I note that is something that the former Deputy of St. Martin brought as a proposition even though it was not supported. But it is most welcome when we are told that a particular law is human rights-compliant and that we are given an explanation as to which Articles are invoked and if there is a question of qualified rights or proportionality that is also included. This has been done so I would simply like to note that but also ask the Minister for Social Security if he knows whether this will be common practice henceforth and I certainly hope that will be the case.

### **7.1.8 Senator B.I. Le Marquand:**

At the risk of causing confusion, I think it is right to try and answer some of the legal questions. This is within my areas of expertise. In relation to Deputy Baudains, the position is this is dealing with hypothecs in Jersey and therefore not elsewhere. In relation to Deputy Higgins, I would like to comment that you cannot charge with a life enjoyment held property. In relation to Deputy Young, it is Regulation 4(2) which deals with cancellation. The issue of existing charges is an interesting legal question because if there is an existing charge and you then create a further charge, therefore the rank is the second charge after the first charge. But it may cause difficulties because sometimes lenders have conditions in their lending that you shall not create a second or further charge. So that issue will have to be looked at quite carefully in order to ensure that by registering a second charge, it does not thereby cause a breach of the terms of the first charge. I hope I have not trodden on the Senator's toes but I thought those were legal matters rather than other matters and it might assist him if I tried to deal with those points.

### **Deputy M.R. Higgins:**

Sir, can I ask the previous speaker if he could just repeat the first part in answer to my question. I did not hear it correctly so if he does not mind repeating it.

### **Senator B.I. Le Marquand:**

I am sorry. Was that what I said in relation to life enjoyment? Yes, what I said is there is no provision in law that I am aware of - I am sure there is no provision in law - for charging a life enjoyment. The reason for that is because the life enjoyment terminates the moment the person dies and so you would be left in the air, but I am not aware of provision in Jersey law for charging a life enjoyment.

### **Deputy M.R. Higgins:**

Sir, can I just try and explain where my question was coming from? If one member of the family is in care and is obviously taking assistance under the scheme, if, for example, their partner has a life enjoyment of the property under the will when they die, what happens then?

### **The Deputy Bailiff:**

I am sorry, Deputy. Would you put your question again because H.M. Solicitor General has just arrived and he will be able to give you some legal advice?

### **Deputy M.R. Higgins:**



Okay, thank you, Sir, yes. What I am saying is you have a couple, one of whom goes into care, and a charge is taken on the property and the will of that person states that their partner will have life enjoyment in the property. When that person who is in care dies, and I assume the States would like to recover some money, what happens? They cannot turf the other person out of their home so how do the States recover its money?

**The Deputy Bailiff:**

The hypothesis, Deputy, is that the property is owned outright by the person who has gone into care.

**Deputy M.R. Higgins:**

Yes, Sir.

**Mr. H. Sharp Q.C., H.M. Solicitor General:**

In those circumstances, the States of Jersey will have to wait until that person has enjoyed their life enjoyment of the property.

**7.1.9 Deputy J.P.G. Baker of St. Helier:**

In that case, is the scheme capped? Is there an upper limit to what the total contribution will be please?

**The Deputy Bailiff:**

Does any other Member wish to speak? Deputy Tadier, you have spoken already but you want a question to H.M. Solicitor General.

**Deputy M. Tadier:**

Yes, it may be in the same direction that Deputy Baker is coming from. But if one has to wait until the enjoyment is fully enjoyed, will the interest be accruing all that time and is it possible also for the enjoyment to be a multi-generational thing so that when somebody has had that enjoyment, *et cetera* ... I think H.M. Solicitor General understands the question.

**H.M. Solicitor General:**

No, the life enjoyment is specific to the individual and, yes, interest would continue to accrue.

**Deputy J.H. Young:**

May I be allowed to ask a question of H.M. Solicitor General, Sir? It concerns this question of the second charge that the Senator answered. If there is a situation in the family law dispute at the same time as the long-term care issue, will the family law directions override the selling of the house or will this new type of hypothec, as it were, take precedence over everything else?

**H.M. Solicitor General:**

Can I answer the question in this way? If one looks at Article 2(8) of the proposed law, one will see that the Social Security hypothec will rank in priority to other hypothecs from the date it is registered in the public registry. So, to take a simple example, there may already be a mortgage on the house. If that comes first in time, that obviously takes priority over any Social Security hypothec that might follow. So it is really a question of the chronology of events and what comes first and the Social Security hypothec will be assessed in terms of the overall chronology.

**The Deputy Bailiff:**

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

**7.1.10 Senator F. du H. Le Gresley:**

I thank Senator Le Marquand and of course H.M. Solicitor General for dealing with the more technical legal aspects and, hopefully, those Members who had queries on the law itself and the application of the law are satisfied with those responses. One or 2 questions straight outside of possibly even this particular law but Deputy Power asked about divesting of assets but we have discussed that in P.99 and what we can do is look back over 10 years. This is already provided for in the law to do with divesting of assets so there will be that provision.

[15:45]

If we feel or believe that somebody has turned up at our door, so to speak, requesting the Long-Term Care Benefit and we have evidence to believe they have divested assets in order to take advantage of the scheme, we can look back and request information about divested assets and treat that person as still having those assets even though they may have given them away to family or whatever or for less than the current value. The Deputy of St. Ouen referred to our response to the Scrutiny Panel's report regarding the allowance that we will provide for a partner if their husband or wife or whatever goes into a home. As I have said before, this will be specified by order but, essentially, we have Income Support and we know what components we pay out on Income Support. That would be the baseline but we also have said that we will make allowances for maintenance of the property, for taxes for the long-term care charge so each case will obviously be assessed and if that person is not happy with the assessment, they have the right of appeal. I may have misunderstood exactly what Senator Ferguson was asking but in the case of a couple, at the current time, we are obviously helping people who are asset-rich/cash-poor through Income Support residential care where we currently provide a bond and we are currently lending in the region of £2.4 million. That help is available now so if there is anybody who - until this new Long-Term Care Benefit starts in July of next year, if all goes well - would come to the department if they are struggling, we could provide a bond now against their property until this new Social Security hypothec is in place. But with the assets of a couple where they have joint assets, we would look to be able to take a charge if they are in moveable property against both the person going into care and if they are a marriage-type relationship and that of a couple as well. Deputy Tadier was pleased that there was a human rights audit report. I would remind him that this is primary legislation and the States requirement is that any primary legislation goes through a human rights audit. We do not have that provision for Regulations. Deputy Baker wants to know about capping of the debt. I think this is in relation to when the claimant who is receiving the benefit perhaps passes away in a care home. Obviously as soon as the benefit stops being paid in that circumstance, the debt is capped but we will be charging interest at base rate of 0.5 per cent. So the debt will grow until such time as the property is sold or changes hands so there will be the increase of interest only. I, again, thank Senator Le Marquand and H.M. Solicitor General. I would also like to thank the Legislation Advisory Panel who also looked at this piece of legislation and I am grateful for their help and particularly the Law Draftsman in coming up with what is a very simple, hopefully, but very useful piece of legislation to help long-term care and I maintain the principles.

**The Deputy Bailiff:**

Are all Members in favour of adopting the principles? The appel is called for and I ask Members to return to their seats. The voting is on whether to adopt the principles of the Draft Social Security (Hypothecs) (Jersey) Law 201- and I invite the Greffier to open the voting.

<b>POUR: 30</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy of St. Ouen		
Senator A. Breckon		Deputy S.S.P.A. Power (B)		
Senator S.C. Ferguson		Deputy S. Pitman (H)		
Senator B.I. Le Marquand		Deputy G.C.L. Baudains (C)		
Senator F. du H. Le Gresley		Deputy J.P.G. Baker (H)		

Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**The Deputy Bailiff:**

Minister, do you wish to propose the articles *en bloc*?

**7.2 Senator F. du H. Le Gresley:**

Yes, Sir, if I may. Article 1 is an interpretation provision and makes clear that liability for the debt can apply to individuals and their partner in the same household. It defines a partner to mean the debtor’s spouse or civil partner or any individual living in a similar relationship with the debtor. Article 2 creates a legal hypothec on all the immovable property of the debtor and their partner and registers it in the public registry. The hypothec ranks in priority to other hypothecs from the date of its registration. Article 3 allows the amount accrued by the Social Security hypothec to build up over time, which is one of the strengths of the hypothec. Article 4 gives notification that the translation of relevant provisions of the 1880 Law is set out in the schedule to this draft law. This Article also sets out how a legal hypothec can be cancelled or *rayez*, which Deputy Young was asking about, and how it can be in force without any time bar if the property passes into the hands of a third party. In the case of a time bar, normally the prescription period, as it is called, is for 10 years but in particular relation to our Social Security hypothec it is not limited to 10 years. Articles 5 to 7 cover the rules of court, the fee for registration, which we have already mentioned will be paid by the Social Security Department, and the citation and commencement. I propose the Regulations *en bloc*.

**The Deputy Bailiff:**

Seconded? [Seconded] Does any Member wish to speak on the Articles?

**7.2.1 Deputy G.C.L. Baudains:**

Further to the question Deputy Baker asked under Article 3 the amount secured by the Social Security hypothec: what limit applies to this? My understanding from yesterday's debate was the maximum liability was £50,000 so presumably the maximum amount would be £50,000 plus any interest, or have I misunderstood that?

### **7.2.2 Deputy J.H. Young:**

In Article 2(2) the requirement seems to say that where the Minister for Social Security puts a legal hypothec on a property it has also to be on the debtor's partner, whether they are owned separately, jointly or in common. What is the situation if the partner refuses? To acknowledge the legal hypothec, is it proposed to force that on somebody and remove their own rights?

### **7.2.3 Senator A. Breckon:**

In the interpretation it talks about partner and it says it means the debtor's spouse or civil partner, and then it says: "Or any individual living in a similar relationship with the debtor." Can I ask the Minister for Social Security who that is?

### **The Deputy Bailiff:**

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

### **7.2.4 Senator F. du H. Le Gresley:**

Deputy Baudains makes the point that the amount of the debt should in his opinion be a maximum of £50,000, but some claimants may choose to purchase a higher level of care during their lifetime which, because they are the only owners of a very substantial property and, for whatever reason, they want the very best package they can buy and need help with the co-payment, the £300 we were talking about. Perhaps that co-payment in their case is more like £500 because they have chosen the best room with the best services and, as somebody said to me one day, with a pole dancer. Sorry, I probably should not have said that. There is a limit to what you can buy when you are in long-term care. **[Laughter]**. If we already have a legal hypothec in place and they say they would like to go beyond the £50,000 to buy these extra services as part of their co-payment, we would be able to lend more with their approval, and we also would have interest accruing on the debt. I hope that answers the Deputy's question, perhaps not in the way he was anticipating.

### **Deputy G.C.L. Baudains:**

Is the Minister for Social Security going to make an order regarding the size of the pole?

### **Senator F. du H. Le Gresley:**

Deputy Young wants to know the position if a partner refuses to join in the debt. I see H.M. Solicitor General is still here so I am grateful for that, but there is no requirement to acknowledge this debt before the Royal Court. We put a notice on the public register of the signing of the hypothec by the claimant. Obviously, if the claimant jointly owns property it will be attached to a property jointly owned and I am not sure the refusal of a partner would affect our ability to register the hypothec, but I would bow down to better legal information from H.M. Solicitor General if he would prefer to comment on that.

### **H.M. Solicitor General:**

Yes, I agree with that analysis. It is not a question of taking the debtor's partner to court. The hypothec is created by registry in the public registry when it is registered in that registry. Having helpfully been asked to answer that question, can I please revise what I told the Assembly a few moments ago? Once the debtor's partner is fixed with this legal hypothec as well and assuming that comes first in time, then insofar as a life enjoyment interest is created thereafter, the position would then be the original Social Security hypothec would take priority because it was created first

in time and therefore it may be that any life enjoyment would, I am afraid, fall away because the Social Security hypothec would take priority.

**Senator F. du H. Le Gresley:**

The final question was from Senator Breckon who wanted further explanation of a partner as defined in Article 1, "Partner". I will read it out: "Partner means the debtor's spouse or civil partner [we are aware of civil partnership now in our legislation] or any individual living in a similar relationship with the debtor whether or not of different sexes." We are moving with the times in this legislation. Income Support recognises co-habitation which we call a marriage-type relationship. We do not ask any further questions other than that. This will be available. A partner living in a marriage-type relationship is included within this description in the hypothec law. I hope that is sufficient, and I maintain the Regulations.

**The Deputy of St. Ouen:**

One question that arises from the comments by H.M. Solicitor General is to do with how life enjoyment is dealt with. If one of the partners in their will assigns life enjoyment of the property to their partner and then finds themselves being introduced into long-term care and taking out the loan, is H.M. Solicitor General suggesting the will and the express wishes of the individual cannot be met?

**H.M. Solicitor General:**

What has happened is that prior to any will taking effect on the hypothesis that has been put to me, is that both the creator of the will and their spouse have both committed to the Social Security legal hypothec, and you cannot use a will to delay the implementation of the obligations of that hypothec. It creates the obligations it creates.

**Deputy J.A. Martin:**

Can I just clarify that? If they had written it the other way round the Social Security Department do not take the charge until the life enjoyment has been carried out. This has thrown quite a few of us.

**The Deputy Bailiff:**

Is that a question?

**Deputy J.A. Martin:**

It is a question. Is that what H.M. Solicitor General is saying? I think he said that the Social Security hypothec comes before the life enjoyment, but that is the way the law is written and I think that has thrown a lot of us.

**H.M. Solicitor General:**

Yes, that is the way the law is written and if you look at Articles 2(2) and 2(8) together it is pretty clear the Social Security hypothec is taking priority from the moment it comes into force. If there is a mortgage before that it takes priority but anything that comes after it, such as life enjoyment in a will, does not. The other thing to say about this is if you are not leaving your removable property to your wife, who are you leaving it to? They are still going to be responsible for all the hypothecs on the mortgage and the Social Security bond. Somebody will have to deal with this hypothec when whoever made the will passes away, so there are practical issues that were not quite fully addressed, if I may say so, when the question was put to me by Deputy Reed. Who is going to own a property if not the spouse? Somebody will have to deal with the Social Security hypothec.

[16:00]

**Deputy M.R. Higgins:**

Can I follow up for H.M. Solicitor General? Let us assume that I write a will and my wife is put down as to have life enjoyment in the property, and this is enacted or registered before the law comes into place. Are you saying then in those circumstances she would not be entitled to life enjoyment? You say the partner is liable for the debts but if the partner is living in the house and the only way they could pay back the money to the Social Security Department is to sell the house, is that not frustrating the whole purpose of the life enjoyment in the estate?

**H.M. Solicitor General:**

I am not quite clear what the question is, but the simple fact is whatever you write in your will it does not take effect until somebody passes away and before that event occurs there has already been an agreement, a hypothec at least, which involves that person and the Social Security Department and the spouse, and that takes priority according to the law. Thinking about it a bit more, what is being said is somebody has a hypothec they have to deal with because they are the legal owner of the property but they cannot sell the property to clear the debt because someone has a life enjoyment. They then receive the benefit of that life enjoyment for, say, 30 years, interest accumulates all the way through that 30 years and then, and only then, can the person sell the property to clear the debt. But now the debt is so big the property does not meet all the debt they now owe. That is a legal analysis. It is a matter for the Member as to whether they think that is a sensible, practical arrangement.

**The Deputy Bailiff:**

The Articles are proposed. Will all Members in favour of adopting them kindly show? The appel is called for. The Members are to return to their seats. I ask the Greffier to open the voting.

<b>POUR: 23</b>		<b>CONTRE: 13</b>		<b>ABSTAIN: 0</b>
Senator A. Breckon		Connétable of St. Lawrence		
Senator S.C. Ferguson		Deputy J.A. Martin (H)		
Senator B.I. Le Marquand		Deputy G.P. Southern (H)		
Senator F.du H. Le Gresley		Deputy of St. Ouen		
Senator I.J. Gorst		Deputy of Grouville		
Senator L.J. Farnham		Deputy S.S.P.A. Power (B)		
Senator P.M. Bailhache		Deputy S. Pitman (H)		
Connétable of St. Helier		Deputy T.M. Pitman (H)		
Connétable of Trinity		Deputy T.A. Vallois (S)		
Connétable of St. Martin		Deputy M.R. Higgins (H)		
Connétable of Grouville		Deputy J.P.G. Baker (H)		
Deputy R.C. Duhamel (S)		Deputy J.H. Young (B)		
Deputy R.G. Le Hérisssier (S)		Deputy R.J. Rondel (H)		
Deputy J.A. Hilton (H)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				

**The Deputy Bailiff:**

Minister, do you wish to propose the Bill in the Third Reading?

### 7.3 Senator F. du H. Le Gresley:

Yes, Sir.

#### The Deputy Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak?

#### 7.3.1 Deputy J.H. Young:

The decision just taken, does this mean in practical terms that let us say there is a couple, they may or may not be married, living together, one of them unfortunately has to go into long-term care and that person had intended their partner would be able to live in that house rent-free. But effectively they are going to be forced at some point, some premature point, to leave that house and sell it and rent, which they may not be able to do. Is that going to be the practical effect? If not, could the Minister for Social Security tell us how he thinks this problem can be got round?

#### The Deputy Bailiff:

Does anyone else wish to speak? This is whether to adopt the Bill in the Third Reading. Minister?

#### 7.3.2 Senator F. du H. Le Gresley:

I have maintained all the way through, and this is the case, that the hypothec will only be enforced when the partner leaves the property, whether that is by passing away, selling up or whatever. But the hypothec will not be enforced while the partner remains in the home. With that, I ask for the appel on the Third Reading.

#### The Deputy Bailiff:

The appel is called for. Members are asked to return to their seats and the vote is whether to adopt the Bill in the Third Reading. I ask the Greffier to open the voting.

<b>POUR: 24</b>		<b>CONTRE: 13</b>		<b>ABSTAIN: 0</b>
Senator A. Breckon		Connétable of St. Lawrence		
Senator S.C. Ferguson		Deputy J.A. Martin (H)		
Senator B.I. Le Marquand		Deputy G.P. Southern (H)		
Senator F. du H. Le Gresley		Deputy of St. Ouen		
Senator I.J. Gorst		Deputy of Grouville		
Senator L.J. Farnham		Deputy S.S.P.A. Power (B)		
Senator P.M. Bailhache		Deputy S. Pitman (H)		
Connétable of St. Helier		Deputy T.M. Pitman (H)		
Connétable of Trinity		Deputy T.A. Vallois (S)		
Connétable of St. John		Deputy M.R. Higgins (H)		
Connétable of St. Martin		Deputy J.P.G. Baker (H)		
Connétable of Grouville		Deputy J.H. Young (B)		
Deputy R.C. Duhamel (S)		Deputy R.J. Rondel (H)		
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Hilton (H)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				

## **8. Draft Long-Term Care (Jersey) Law 2012 Appointed Day Act 201- (P.142/2013)**

### **The Deputy Bailiff:**

We now come to the Draft Long-Term Care (Jersey) Law 2012 Appointed Day Act, P.142, lodged by the Minister for Social Security and I ask the Greffier to read the Draft Act.

### **The Greffier of the States:**

Draft Long-Term Care (Jersey) Law 2012 Appointed Day Act. The States, in pursuance of Article 18 of the Long-Term Care (Jersey) 2012, have made the following Act.

### **8.1 Senator F. du H. Le Gresley (The Minister for Social Security):**

We are nearly there. This Appointed Day Act gives effect to the Long-Term (Jersey) Law approved by this Assembly in 2011. It proposes that the Long-Term Care Benefit will commence from 1st July next year. In advance of that date the Long-Term Care Fund itself must be set up so that funds are available to make benefit payments. Part of the initial funding for the fund will be transferred from existing underspent budgets in respect of 2013 from my department's cash limits. It is therefore proposed to bring into force those parts of the law that create and regulate the fund itself before the end of 2013. The remaining parts of the law will come into force on 1st July 2014. I make the proposition.

#### **8.1.1 Senator I.J. Gorst:**

Members said all that needs to be said in the first main debate this morning. This is a historic day, a historic moment for changes to our social provision in our community and I want to re-iterate my thanks to the Minister for Social Security for bringing all the work forward that he has. **[Approbation]** Sometimes people say in this Assembly we focus on the wrong things and we do not consider the needs of everyday members of our community. That cannot be said today. This is setting in place a social provision which will mean that in our community people will never again need to be concerned about those catastrophic care costs that might come up them through no fault of their own, and the Minister for Social Security can be proud of the work his department and officers and he himself have undertaken in getting us to this day. I hope that Members will give unanimous support for this Appointed Day Act to bring this legislation into force. Thank you.

#### **8.1.2 Senator F. du H. Le Gresley:**

I just wish to thank the Chief Minister for his kind words and I endorse everything he says about the officers who have helped us get this far today.

### **The Deputy Bailiff:**

Will Members in favour of adopting the Draft Long-Term Care (Jersey) Law 2012 Appointed Day Act kindly show? The appel is called for. I will ask Members to return to their seats and ask the Greffier to open the voting.

<b>POUR: 37</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy of St. Ouen		
Senator A. Breckon		Deputy S. Pitman (H)		
Senator S.C. Ferguson		Deputy J.P.G. Baker (H)		
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				



Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

## **9. Draft Public Finances (Amendment of Law No. 1) (Jersey) Regulations 201-(P.133/2013)**

### **The Deputy Bailiff:**

I can take this opportunity of announcing to members that the Draft Restriction on Smoking (Amendment No. 3) (Jersey) Law 2013 Appointed Day Act has been lodged by the Minister for Health and Social Services, P.161, and the Draft Restriction on Smoking (Vending Machines) (Jersey) Regulations 201-, P.162, has been lodged by the Minister for Health and Social Services. We come now to the Draft Public Finances (Amendment of Law No. 1) (Jersey) Regulations, P.133, lodged by the Minister for Treasury and Resources, and ask the Greffier to read the citation of the Draft.

### **The Greffier of the States:**

Draft Public Finances (Amendment of Law No. 1) (Jersey) Regulations. The States, in pursuance of Article 23(5) in the Public Finances (Jersey) Law 2005, have made the following Regulations.

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

Firstly, I need to make an apology to Members that this amendment to the Regulations was not lodged in time to be included with other Budget legislation we approved last week. As a direct consequence of the States approving the 2014 Budget the Minister for Treasury and Resources is recommending to the States that the maximum amount the States may lend be increased to the

equivalent of 60 per cent of the estimated income derived from taxation during the previous financial years. Under the existing terms of the Public Finances (Jersey) Law 2005 the States are authorised to lend money up to an amount equal to 15 per cent of the estimated income derived from taxation during the previous financial year. The primary purpose of this consequential amendment is to address the approval in the 2014 Budget to borrow up to a maximum of £250 million in 2014 for housing purposes and then to lend on up to this maximum sum for housing purposes. This lending may be made to housing trusts, associations, companies or bodies with the same purpose, registered in Jersey, in order that they can provide housing for Islanders. The borrowing for housing purposes is being undertaken by the States in order to achieve preferential interest rates over a suitable term to ensure that more much-needed housing can be provided. Detailed work has been undertaken which illustrates that substantial financial savings can be made if borrowing is directly secured by the States rather than by the individual housing trusts, associations, companies or bodies. The Minister for Treasury and Resources is extremely keen to ensure the States of Jersey achieves value for money for all financial initiatives plus also ensuring the relevant key financial safeguards are in place. The Public Finances (Jersey) Law 2005 sets the parameters within which States money may be lent to third parties. For example, all lending requires approval by the States. Although Regulations have been approved by this Assembly in accordance with the law which set out prescribed limits within which the Minister for Treasury and Resources is able to lend, this proposed amendment does not alter the other existing powers of the Minister for Treasury and Resources to lend. Any changes to those parameters within which the Minister for Treasury and Resources could lend would need to be brought back to this Assembly for further consideration. Following the States' approval of the 2014 Budget of the provisions for lending for housing purposes, the Minister for Treasury and Resources may, if these Regulations are approved, authorise specific loans for housing purposes in the name of and on behalf of the States without further recourse to the States up to the £250 million limit. The Minister for Treasury and Resources will ensure that the correct checks and balances are in place before authorising any loan and he intends to further strengthen the existing robust provisions. The Treasurer will also issue a financial direction specifying the procedures to be followed prior to any loan for housing purposes being made. These procedures adopted will involve full consultation with both the Minister for Housing and the Council of Ministers. As required by the Public Finances Law, the Minister for Treasury and Resources will ensure that all approved lending is reported to the States in the 6-monthly financial update report. I commend these Regulations to the Assembly.

**The Deputy Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak?

**9.1.1 Deputy M.R. Higgins:**

Obviously the Assistant Minister was telling us the Regulations also state that the borrowing is for housing purposes. Can I give you a hypothetical case? If the Jersey Development Company wanted to invest in housing that was not social housing but, let us say, luxury housing, would they be able to borrow the sums from the States out of the £250 million and would that also be without recourse to this house?

**9.1.2 Deputy R.G. Le Hérissier:**

There is no doubt one of the phenomena historians of the future will write about will be the incredible concentration of power in the hands of the Minister of Treasury and Resources. It was interesting the way that the Assistant Minister phrased it that the Minister for Treasury and Resources himself will denote the correct checks and balances that are absolutely crucial. In other words he will advise us on how he intends to control himself. I wonder if he could tell us what these precise checks and balances will be.

[16:15]

### **9.1.3 Deputy T.A. Vallois:**

I would like to push the Assistant Minister on why 60 per cent was the determining amount, because if you base the figures on page 3, where they base it on the 2012 taxation receipts, 60 per cent of that is over £320 million. I would like him to give a proper and understandable explanation as to why 60 per cent was chosen and not 50 per cent. Also, if that is the case, considering the questions I asked the Assistant Minister for Treasury and Resources yesterday with regard to the Treasurer having delegated powers to lend and borrow, will this also come under the changes to the Public Finance Law he is now asking us to agree?

### **9.1.4 Senator L.J. Farnham:**

I wanted to ask the Assistant Minister, if at the appropriate time to do so, where the asset will be shown. We are borrowing for housing which will realise itself in a large asset of housing stock. Where will that be shown?

### **9.1.5 Senator S.C. Ferguson:**

This ability to lend depends on the States borrowing 60 per cent of income. I have been unhappy about this all the way along because I have always been taught by people who know what they are talking about in finance and industry that when you are borrowing money you should borrow no more than 30 per cent of either income or assets and here we are looking at 60 per cent. These things need repaying and if our income tax receipts fall, which is quite possible depending on the economic state, such a loan we are going to make would perhaps be illegal because it would not be part of the law. How will the Assistant Minister square these various circles I have described?

### **9.1.6 Deputy J.H. Young:**

Following up Deputy Le Hérisier's question: would the Assistant Minister not consider that this is such a significant transaction, probably one of the most significant transactions ever conducted through the States' accounts, this ought to be subject to at least a dual certification and scrutiny arrangement including more than one Minister, so at least we have those checks and balances in place? Also, I notice that this, and I was surprised to see this, appears to be a general power, i.e. we can now borrow 60 per cent of whatever income we are talking about. Last week a lot of us struggled to agree that we would lend for housing, and yet this seems to be a general power. I am struggling to see how we can approve a law that does not limit to the purpose for which we made the budget decision. Finally, I see we are told the Minister for Treasury and Resources will assure we are told about it when it happens, 6 months after the event. I must say I think that is astonishingly late. I think I am going to sit down now.

### **9.1.7 The Connétable of St. John:**

I am not going to change my stance. I am definitely not voting for this. The Minister for Treasury and Resources has been trumpeting around the world for the last 5 years that Jersey has no debt. We are now going to be putting the Island in debt on the back of giving him all the power to make the various decisions and I am not going to be signing up to anything of this nature. Thank you.

### **9.1.8 Deputy A.K.F. Green of St. Helier:**

I thought we had really put this one to bed last week when we discussed P.33. This is about putting in place the ability to borrow £250 million, which the States agreed in the Budget last week, which the States also agreed as a principle in the debate on 16th May of P.33. £207 million is directly attributable to the new housing company and will be released in stages as projects come along. The remainder is there to enable development of, for example, if the States agrees sites in the debate of the draft Island Plan. I will give another scenario where loans might be made. Short-term loans

might be made, for example, in the case, similar case to Trinity where we can lend money to the Parish to develop homes which they then sell on but they need, in effect, a bridging loan during that development over 3 years. This is making our money work for us. This is housing our community. If we do not approve this then the whole work that we have done around the housing transformation falls away and we will fail to house our community. I will not, for one, be party to that.

**The Deputy Bailiff:**

Can I just say from the Chair, the Regulations here are concerned with lending by the States and not borrowing by the States. That is an important matter before the debate gets side-tracked along borrowings.

**Deputy A.K.F. Green:**

Sorry, sir. Can I just pick up on that then? But, of course, some of the £250 million, the £207 million will be lent to the housing company from the Minister for Treasury and Resources.

**9.1.9 Deputy G.P. Southern:**

It is one of those cases, I think, where we might agree, in principle, with all sorts of things before we see the detail and when we see the detail we think twice about it. The fact that the Minister for Treasury and Resources might tell me that he has done so 6 months after he does so, it is a bit like coming home a bit late and worse the wear from the pub and you find a note on the table saying: "Your dinner is in the cat."

**9.1.10 The Deputy of St. Ouen:**

First of all, as a member of the Corporate Services Scrutiny Panel, I must admit that has definitely fallen under our radar as a matter that perhaps we should have scrutinised, especially in light of the various comments that have been made by a number of Members today, though I was seeking approval for trying first the Corporate Services Scrutiny Panel to consider these Regulations and then report back to the States in a timely fashion.

**9.1.11 The Deputy of St. John:**

I think this is quite clear. This is a technical matter. The Draft Public Finances Law states in Article 23 that it is possible to loan 15 per cent of tax income. We have made the decision, quite clearly, that we want to loan considerably more than that for specific purposes to housing trusts and to the new housing company. It is very simple. I really do not know what Members are getting all upset about. When we agreed to do that, it was quite clear that we would need to change that. It is a technicality. I really do not see the problem. All we are going to be doing is substituting the words that are necessary in the Public Finances Law to enable the Minister for Treasury and Resources to do what we have already asked him and agreed that he should do. It is very simple.

**9.1.12 The Deputy of St. Martin:**

I will not say very much. I would just like to concur with the Deputy of St. John. I am afraid that too many of us are looking for worst-case scenarios here and I do not think they are to be made. Certainly from my Parish's point of view, we look forward very much to the generous offer from the Minister for Treasury and Resources to lend us money if we have a scheme that we would like to bring forward for the benefit of housing some of our young couples from the Parish.

**9.1.13 Senator I.J. Gorst:**

I understand some of the Members' concerns because this is an important, if technical, change. It will give effect to allow the States to lend the money to the Housing Department to invest in the programme that many Members agreed last week was the right way forward, that the Housing Department should be given money to invest in social housing, in upgrading the current housing

and in providing new housing. This is an amendment to the law which will allow the Minister for Treasury and Resources to do that in due course. We want to do that. Let us remember why. Because the rate of money available to the States is cheaper than what would be available to the Housing Department if they loaned it in the marketplace directly. So, it is quite straightforward, the decision before us. Do we want to allow our wholly-owned housing company to have access to cheaper money that will be secured by the States or are we now changing our mind and saying: “No, we do not want to do that. We want the Housing Department to go out to the open market and pay more and thereby it will cost more to deliver the changes to social housing that we all think are long overdue”? That is what this technical amendment does. One or 2 Members have also, I think somewhat unfairly, suggested that the Minister for Treasury and Resources may have too much power in this regard. I think that is unfair because the Minister for Treasury and Resources is a Minister that is keen to work in concert with other Ministers, and that is why he has brought forward the proposal he has with regard to housing. That is why he brought forward the proposal he did with regard to the hospital and that is why he has said that any procedures which will need to be adopted as a result of these changes will only be done with full consultation with the Minister for Housing and with the Council of Ministers. The Treasurer will issue a financial direction specifying the procedures to be followed prior to any loan being made to the Housing Department. So, in some ways, what is before us today is a technical amendment which will give effect to allowing that loan to take place. There are other provisions in place. That new financial direction will need to be issued and obviously if Members are not satisfied with that they will be able to review that and consider that. It will not be the Minister for Treasury and Resources going off of his own accord, as someone suggested. But it will be brought forward in concert with the full Council of Ministers, which I believe is what this Assembly would expect. Sometimes it is tempting not to perhaps make the final decision in regard to changing this technical change. But if we really do want to give effect to allowing housing to get on at the lowest possible cost to invest in social housing and bring it up to a standard that we all accept is necessary, then this amendment before us today is part of that necessary decision. I ask that Members will think back to what they were saying last week and accept this amendment.

**The Deputy Bailiff:**

Senator Ferguson, your light is flashing but you have spoken already.

**Senator S.C. Ferguson:**

I thought we were discussing whether this should be referred to Scrutiny, which is what the Deputy of St. Ouen said.

**The Deputy Bailiff:**

No, at the moment we are discussing the principles of the Regulations. When we have finished that discussion I will ask you, as Chairman of the Corporate Services Scrutiny Panel, whether you wish to scrutinise this legislation.

**Senator S.C. Ferguson:**

Excellent, sir. Sorry.

**9.1.14 Deputy T.M. Pitman:**

Just a few words. What I find so hard in this Assembly, and I think it has got worse since last time, is this rewriting of the facts out of history. What Members are concerned here is not a technicality. It is the fact that we are concentrating absolute incredible and completely unsafe power in the hands of one figure and that figure happens to be the Minister for Treasury and Resources. It is fine for the Chief Minister to talk about how it is going to be in consultation with the Minister for Housing.

But with all due respect, we all know how that will go. The Cabinet runs this Government, the Council of Ministers, 3 or 4 people.

[16:30]

I am afraid to say the Minister for Housing is not a member of that. We would all have a lot more faith if this was going to come back to the States and not really be decided on the whims of one of the 3 Chief Ministers, who I think of as one of the 3 Chief Ministers. This concentration of power is getting worse and worse and this, I think, would have huge implications for the future. We are not talking about a few pounds here. Really, I think we should expect more from the Chief Minister than to just tell the Assembly almost anything just to get this through. People are concerned about that focus of power. That is what I would draw Members to really consider and I think this should be rejected. Certainly it must be referred back to Senator Ferguson's panel and I would hope people will support that.

#### **9.1.15 Deputy M. Tadier:**

I do not need to repeat the arguments about concentration of power. That is something which is happening and this is just a small demonstration of what we know is going on around us. Many Members are quite happy with that because ultimately when you have one person making the decisions, although it is less democratic, a despotic regime is nonetheless much more time-efficient. I think Members, especially after a long couple of weeks in the States, might be happy to make the trade-off for that. But the issue that I am concerned about is that we have not been sufficiently prescriptive in this about where the monies can be lent. It has been given a very broad remit. So, for example, as it is currently drafted, the Minister for Treasury and Resources, any Minister for Treasury and Resources, whoever that might be in future, could decide that if something is loosely being used to provide housing for the public, which could be anything - Deputy Higgins has referred to that already - they could be given money. So, we could perceivably see, and that could be a positive thing, that Minister for Treasury and Resources could, on a whim, say: "I would like to bring back the old States loan scheme", which some Islanders might think is a good idea. Similarly, the Minister for Treasury and Resources might find that a particular housing developer has had a hard time and has gone out of business and make a discretionary loan to that firm and say: "We are going to give some money for that because the firm has decided to build some houses; they cannot finish this. I am going to decide to bail that out. But do not worry because I have to speak to the Minister for Housing and make sure that he is on board as well. And I have to get it past the Council of Ministers." No mention of the fact of that coming back to the States for approval. So, I think the concerns that have been raised by a diversity of individuals in this Assembly are correct. I think it would be useful because of course the Scrutiny Panel can pull this in anyway and the rest of the Assembly cannot do anything about that. But I think it would be beneficial if we were to tell the Scrutiny Panel that we would appreciate them looking at this, coming up with recommendations. I cannot remember but there was an Island-wide election in 2011 and we were told that not enough legislative scrutiny happens. Somebody in this Assembly was saying that. I happen to agree with the individual and this is a perfect example. We have the Scrutiny member there who quite rightly says: "This one has slipped under the radar because we were so busy" understandably. Of course their panel has been busy. They have had to deal with a whole series of adversities but also complex legislation coming through, the Long-Term Care Scheme. Of course this is going to slip under the radar. We, as an Assembly, should be allowing the Scrutiny Panel to look at this, not simply saying: "Do not worry; we will pass flawed legislation or legislation when Members have clearly got concerns about what is going on." I do not think that is the right message. Certainly this does need to be referred back. It should not be complex and they can tighten up the wording so that all Members can be satisfied that what was agreed last week can be done with the relevant safeguards intact.

**The Deputy Bailiff:**

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

**9.1.16 Deputy E.J. Noel:**

I am not going to reply to each person that has spoken in this debate. I am grateful for their input. I believe that the Deputy of St. John, the Deputy of St. Martin and the Chief Minister have covered many of the points that have been raised. I would like to put this into context. We are changing one figure for another in the Finances Law. But we have already agreed to do this. We have already agreed to borrow the money from the markets. If this does not go through we will only be able to lend on to the Housing Department less than £88 million - I will come back to that figure shortly - which is going to be a bit embarrassing for us because we will have £250 million that we have borrowed, sitting on our balance sheet, being invested probably in the common investment, so it be being used for the purpose that this Assembly last week agreed that it should be. This Assembly last week agreed that this mechanism should take place, that the Treasury should borrow the money, the States should borrow the money and that we should lend it on to the housing trusts and the new housing company. To go back to some of the points that individuals made: Deputy Vallois questioned why 60 per cent. If you look at the 2012 tax receipts, they came to some £586 million. Currently we can lend up to 15 per cent of that, which is just shy of £88 million. Obviously that is grossly short of what we need to fund the new housing company. The 60 per cent is the maximum amount that we can lend and that comes to £351 million, based on the 2012 estimated income. The rationale for that was that the housing component of it, the £250 million, would take up some 43 per cent of the 60 and that would leave roughly £100 million for onward lending. We currently are already lending just shy of £12 million at the end of 2012. We have a further £3 million in the first-time buyers' scheme. Therefore, the difference is the limit now that we currently have; the difference is the 15 per cent that we can currently lend for whatever purposes. So, hopefully, that gives Deputy Vallois the rationale why it is 60 because effectively we are adding the £250 million to the limit that we can already lend out. Senator Farnham: quite simply this loan that we will be making on to the housing company will sit as an asset on our balance sheet. It will be matched by a corresponding liability off the bond from the marketplace. Much has been said about putting too much power in to one individual. That is really not the case. The Minister for Treasury and Resources has to act within the Finance Law. We have already given him this power. This is merely bringing the Regulations into line with the decision that we made last week. To come back to the Deputy of St. Ouen, and, indeed Senator Ferguson: this really should have stepped on to the radar. It was always the intention that we were going to be borrowing from the markets, £250 million, and lending it on for housing. That, you know, has always been the intention, and it has not slipped under the radar. So, before Senator Ferguson does call this into Scrutiny, because I am sure that she will, I really would like her to consider what has changed from last week to this week because we have already agreed to do this. This is merely putting the mechanics in place. It is going to look quite embarrassing in the New Year when we have borrowed £250 million and we cannot use it for what we have told the public we were going to use it for. But I will leave that with the Senator and I maintain the amendment to the regulation.

**Deputy T.A. Vallois:**

Sir, can I just get a point of clarification from the Assistant Minister? He basically stated that there was going to be a contingency left over of the amount from the 60 per cent, about 15 per cent for onward lending. But he did not state what kind of onward lending that might entail and also whether there was anywhere in the law that actually prescribes for the Minister for Treasury and Resources to have to come back and ask for that from the States Assembly. Could he just clarify, please?

**Deputy E.J. Noel:**

It is merely making sure that the current *status quo* stays there, that currently we have 15 per cent of our income we can lend on and that is merely what we are doing now. We are adding to that, the £250 million, to take it up to the 60 per cent. That is effectively what we are doing. That is all controlled by the Finance Law, how we can make that lending.

**Deputy J.M. Maçon:**

The appel, please, Sir.

**The Deputy Bailiff:**

The appel is called for. I invite Member to return to their seats. The vote is on whether to adopt the principles of the Public Finances (Amendment of Law No. 1) (Jersey) Regulations and I ask the Greffier to open the voting.

<b>POUR: 29</b>		<b>CONTRE: 10</b>		<b>ABSTAIN: 2</b>
Senator P.F. Routier		Senator S.C. Ferguson		
Senator B.I. Le Marquand		Connétable of St. John		
Senator F.du H. Le Gresley		Deputy R.G. Le Hérisssier (S)		
Senator I.J. Gorst		Deputy J.A. Martin (H)		
Senator L.J. Farnham		Deputy G.P. Southern (H)		
Senator P.M. Bailhache		Deputy M. Tadier (B)		
Connétable of St. Helier		Deputy T.M. Pitman (H)		
Connétable of Trinity		Deputy M.R. Higgins (H)		
Connétable of St. Peter		Deputy G.C.L. Baudains (C)		
Connétable of St. Lawrence		Deputy J.H. Young (B)		
Connétable of St. Mary		Senator A. Breckon		
Connétable of St. Brelade		Deputy of St. Ouen		
Connétable of St. Martin				
Connétable of Grouville				
Deputy of Grouville				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**The Deputy Bailiff:**

Very well. Senator Ferguson, do you wish this matter to be referred to your panel for scrutiny?

**Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):**

Yes, I can assure the Assembly that we will expedite this as quickly as possible, but, yes, we do.

**Senator I.J. Gorst:**



Notwithstanding that Scrutiny has an absolute right, and I do not wish to interfere with that at all, I do just wonder if the Senator or Chairman would not consider that, as the Assistant Minister said, by taking in what is, in effect, a percentage figure change which the Assistant Minister has very carefully explained, she means that either the Minister for Treasury and Resources cannot take out the bond at this point because there is no certainty that it can be onwardly lent to the Housing Department and thereby it will cost more, or he takes out the bond at the cheap rate that we currently have and it is then sitting in the Strategic Reserve or Consolidated Fund, both of which positions seem to be wholly unsatisfactory. But notwithstanding that I recognise it is the Chairman's absolute right to review the amendment.

**The Deputy Bailiff:**

I have asked the Senator whether her panel wishes to review it and I understood the answer was yes. Senator, that is still the decision?

**Senator S.C. Ferguson:**

Yes, Sir. I really do not see that we cannot get it back to the Assembly before the first sitting in January, and I am not sure that anybody does a great deal of business over Christmas. So, yes, we do.

**The Deputy Bailiff:**

Very well. Then the further debate on the draft Regulations and Second Reading is deferred, pending the Scrutiny Panel's report.

**10. Ratification of the Agreement between the Government of Jersey and the Swiss Federal Council for the Exchange of Information on Tax Matters (P.134/2013)**

**The Deputy Bailiff:**

We now come to P.134, Ratification of the Agreement between the Government of Jersey and the Swiss Federal Council for the Exchange of Information on Tax Matters, lodged by the Minister for External Relations. 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 between the Government of Jersey and the Swiss Federal Council for the exchange of information on tax matters, as set out in appendix 1 to the report of the Minister for External Relations, dated 14th October 2013.

**10.1 Senator P.M. Bailhache (The Minister for External Relations):**

This is a continuation of a process which began in 2002 when Jersey entered a political commitment to support the O.E.C.D. (Organisation for Economic Co-operation and Development) tax initiative and to engage in tax information exchange with a number of different countries. An agreement has been concluded with the Swiss Federal Council for the exchange of information on tax matters and the purpose of the proposition before the Assembly is to seek the Assembly's approval for the ratification of that agreement. I move the proposition.

**The Deputy Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak?

**10.1.1 Deputy R.G. Le Hérissier:**

Very briefly, at the risk of stepping on raw nerves. As we know, the Swiss are absolutely prime exponents of referenda and I notice that issues other nations regard as national, for example, immigration, in their country they are often delegated to the cantons or they have a say in those particular policies. Can the Minister assure us that financial policy rests with the federal body?

**The Deputy Bailiff:**

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

[16:45]

**10.1.2 Senator P.M. Bailhache:**

Yes, I think it is interesting to note that the Swiss usually abide by the recommendations of referenda. I cannot say that I have investigated whether or not the Swiss Federal Council has the authority to enter into an agreement of this kind but I am fairly confident that it would not have signed on the dotted line, had it not had the jurisdiction to do what it purports to do. So, I think I am fairly safe in assuring the Assembly that the Swiss Government has the power to do what it has just done. I maintain the proposition.

**The Deputy Bailiff:**

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

## **11. Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 8) (Jersey) Regulations 201- (P.143/2013)**

**The Deputy Bailiff:**

We come to P.143, the Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 8) (Jersey) Regulations, lodged by the Minister for External Relations and I ask the Greffier to read the citation.

**The Greffier of the States:**

The Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 8) (Jersey) Regulations. The States, in pursuance of Article 2(1) of the Taxation (Implementation) (Jersey) Law 2004 and following the decision of the States, taken on the day these Regulations are made, to adopt Projet 134 of 2013, have made the following Regulations.

**11.1 Senator P.M. Bailhache (The Minister for External Relations):**

Members will be familiar with this procedure, having agreed to ratify the agreement with the Swiss. It is now necessary to amend the Taxation Exchange of Information with Third Countries Regulations in order to include Switzerland in the list of countries with whom we exchange information. I move the principles of the Regulations.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak? Those in favour of adopting the principles, kindly show. Those against. The principles are adopted. Do you move the Regulations together, Minister?

**Senator P.M. Bailhache:**

Yes.

**The Deputy Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak on the Regulations? Those Members in favour of adopting the Regulations, please show. Those against? The Regulations are adopted. Do you move them in Third Reading, Minister?

**Senator P.M. Bailhache:**

Yes, sir.

**The Deputy Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak in Third reading? All those in favour of adopting the Regulations in Third Reading kindly show. Those against? The Regulations are adopted.

## **12. Draft Wills and Successions (Amendment No. 2) (Jersey) Law 2013 (Appointed Day) Act 201- (P.146/2013)**

**The Deputy Bailiff:**

We now move to P.146, the Draft Wills and Successions (Amendment No. 2) (Jersey) Law 2013 (Appointed Day) Act, lodged by the Chief Minister. I ask the Greffier to read the draft act.

**The Greffier of the States:**

Draft Wills and Successions (Amendment No. 2) (Jersey) Law 2013 (Appointed Day) Act. The States, in pursuance of Article 11 of the Wills and Successions (Amendment No. 2) (Jersey) Law 2012, have made the following Act.

**Senator I.J. Gorst:**

I ask Senator Bailhache to act as rapporteur, please.

### **12.1 Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):**

Members will agree that earlier this year they adopted the Draft Wills and Successions (Amendment No. 2) (Jersey) Law 2013 which has now received Royal Assent. The purpose of the Bill is, very broadly speaking, to remove discriminatory provisions between men and women in relation to the customary law concepts of *viduité* and dower, and to place men and women, and, indeed, civil partners, on exactly the same basis so far as the right of a surviving spouse or partner are concerned where a Will has been made. I accordingly move the proposition.

**The Deputy Bailiff:**

Thank you. Does any Member wish to speak? Deputy Young.

#### **12.1.1 Deputy J.H. Young:**

Just very briefly, when we discussed this before I did raise the question that we would end up with a provision saying that there was only one-third the life interest to the surviving spouse or partner, whether that be a male or female, where there is a will willing the property in favour of other persons, usually children. I made that point. Obviously I did not succeed in that but I remember in the summing up from the Assistant Minister the commitment was given that there would be further work done to look at the wider issues of this. I would like to know briefly, from the Assistant Minister, whether he has been able to progress that and if not what expectations we can have that that will be done?

#### **12.1.2 Senator P.M. Bailhache:**

Deputy Young is quite correct, that is exactly what happened during the debate on the draft Bill. Following that debate the Legislation Advisory Panel met and had a discussion on the matter and we agreed to invite Deputy Young to give us his indication as to how he thought the law should be further amended. I sent either an email or a letter to Deputy Young on this matter and I believe that I am awaiting a reply. That is the current position, so far as further reform is concerned. I maintain the proposition.

**Deputy J.H. Young:**

May I ask clarification of that? Do I take that reply to mean that it is for every Member to pursue the detail of such a complex matter themselves and, therefore, it does not fall within the remit of the Members forming the Legislation Advisory Board?

**Senator P.M. Bailhache:**

No, it does not mean that but the Members of the Legislation Advisory Panel thought it would be helpful to get the Deputy's views, more specifically, on what he wanted us to do. I am very happy to invite the Deputy to come along and talk to the panel and perhaps that is the best way forward. I maintain the proposition.

**The Deputy Bailiff:**

All Members in favour of adopting the Appointed Day Act kindly show. Those against? The Act is adopted.

## **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Deputy Bailiff:**

We come to item M on the agenda. The Chairman of Privileges and Procedures, Deputy Maçon.

**13. Deputy J.M. Maçon (Chairman, Privileges and Procedures Committee):**

For the next sitting on 21st January we have the addition of P.159, 161, 162 which are the smoking ones lodged by Minister for Health and Social Services, although they cannot be debated until 22nd January now. Also, in addition to the items on 4th February, we have P.160, Elected Speaker of the States brought by the Constable of St. Helier and also we will be putting that down as the date for P.133 that was put forward for Scrutiny today. Looking at the extensive items down for 21st January, may I recommend that Members schedule a 3-day sitting for that sitting and, unless Members would like me to flag anything up, I would like to propose that as Public Business for the 21st.

**The Deputy Bailiff:**

Does any Member wish to speak? Senator Farnham.

**Senator L.J. Farnham:**

Did Deputy Tadier defer or withdraw his earlier proposition?

**The Deputy Bailiff:**

I understood that you withdrew.

**Deputy M. Tadier:**

Yes, I have had to withdraw because of the time restraint on that which has been lodged for the maximum period. I do intend to reodge it for debate. Hopefully we will know where we are with Senator Ozouf's recommendations of proposition.

### **The Deputy Bailiff:**

No other Members wish to speak so the agenda seems to be settled as proposed by the Chairman of Privileges and Procedures. Senator Routier.

## **CHRISTMAS GREETINGS**

### **Senator P.F. Routier:**

It is the time of the year when we gather with friends, family and colleagues to celebrate and perhaps think about what has been achieved during the year and what we can look forward to in the New Year. Reflecting on the last year, it has been a year which has been full of invigorating debates, frustrating debates and debates which will ultimately provide some momentous improvements to the community we serve. We only have to think of some very recent days when we debated the budget with the setting out on the road of providing a hospital suitable for future generations, the commitment to social housing, the not-so-glamorous Liquid Waste Strategy and, of course, the reduction in the marginal rate. We must not forget the big decision this week with the introduction of the long-term care proposals which will be of significant benefit to our community. In remembering some of the highlights of what has been achieved, I am reminded that this year has been challenging for some of us and personally difficult. As an Assembly, we faced the passing away of the Constable of Grouville and some of us have suffered family bereavement and some are dealing with personal health problems. It is at this time that we can reflect and keep all Members and their families in our thoughts and prayers. Currently we find that the world media is quite rightly focusing on the tremendous life of Nelson Mandela, his way of life and his achievements through peace and reconciliation. It brings to mind the fantastic thought-provoking peace seminar held by the Rotary Club of Jersey where speakers came from around the world to share their experiences of how peace has a powerful effect on the outcomes of communities, not only in war-torn countries but right here in our Island and in our own homes. I am convinced that as a community we should further develop the work of the Rotary Club to bring peace and reconciliation and tolerance at all levels and especially with those nearest to us. Jersey is increasingly taking a more involved role on the international stage where we have many business opportunities. Jersey's role around the world is not just about doing business; the Overseas Aid Commission has once again been reacting to requests to provide emergency aid to support people who have had their homes destroyed by the tremendous typhoon in the Philippines. The people of our Island have also been contributing to the Bailiff's Appeal and may I encourage anyone who wishes to contribute to do so. While the Philippines are rebuilding and starting to bring their community back to order, in the Central Republic of Africa an increasingly worrying unease among its people is becoming evident, which I am sure we hope and pray does not develop into a greater humanitarian disaster. Moving to lighter moments, at the last States sitting we witnessed the spectacle of the Chief Minister removing the faulty light bulb. Of course, this raises the question how many Senators does it take to change a light bulb? The answer is just one with the support and advice of a Constable. Where would we be without them? **[Approbation]** 21st century? There was also another moment during the last sitting when one of the Senators desperately needed a glass of water. Sir, you very generously leapt out of your seat and jumped down and gave the Senator some water. This is really beyond the call of duty unless, of course, it was your intention to widen your role in the future. On behalf of my fellow Senators, I extend Christmas greetings to the Bailiff, Lady Birt, to you, Sir, and Mrs Bailhache, to His Excellency and Lady McColl, the Dean and Mrs Key, H.M. Attorney General, H.M. Solicitor General and to all your families. The Senators are especially grateful for the guidance that we receive from the Crown officers and hope that we do not cause too many difficulties in our endeavours. As much as we would like to think, the success of the States is not solely down to elected Members. The Greffier and his team in

Morier House are, I am sure Members will agree, a fantastic support. **[Approbation]** We are, of course, also supported by the excellent law drafting and civil servants who work tirelessly and advise us in the departments and Scrutiny offices in which we work. We also benefit from the services of the ushers, the Hansard recorder and, of course, our tea lady. **[Approbation]** May I express the good wishes of the Senators to all who work within the Assembly. In wishing the media our very warm greetings at this time of the year, I would like to acknowledge the hard work that they do and appreciate the challenges that they face in winning the media race to tweet the news first. This Assembly has just completed another year in which there has been some extremely hard work undertaken and difficult decisions made; I do believe we can look back with a real sense of achievement.

[17:00]

We also know that we are heading towards a year that will hold further tough decisions which will need us all to work together even more if we are to meet the expectations of our Island community. On behalf of all the Senators, may I wish all Connétables, all Deputies and everyone associated with this Assembly, together with your families, a very happy Christmas and a joyous, peaceful New Year. **[Approbation]**

### **Connétable A.S. Crowcroft of St. Helier:**

Not being Chair of P.P.C. (Privileges and Procedures Committee) this Christmas, I am unsure whether our Hansard is still typed up in the Antipodes. If during our speeches we sometimes forget that the electorate is listening to what we say in here, we rarely, if ever, spare a thought for those unfortunate people employed to write it all down so that there can be a permanent record of all that we have said on more than 40 occasions this year. Every interruption designed to throw the speaker off course, every completely spurious point of order, every remark that is so local like “black butter” or “*vraic*” or “Deputy Maçon’s jumper”, it has the typist scratching their head. At least, as Deputy Le Fondré rises to speak, the typist can get up from the desk and go out into the garden **[Laughter]** where the Christmas tree baubles are bright in the summer sun or head off to the beach. I want to begin by wishing our Hansard scribes down there a very Merry Christmas. **[Approbation]** For many of us this year has been a difficult one, personally as well as politically. We have lost some much-respected former Members of the States, including the former Constable of Grouville, Dan Murphy, and former Lieutenant Governor Sir Michael Wilkes. Some Members have had to endure family bereavement while others have serious health issues to cope with. We may not always be as polite to each other as we should be during debates and question time, but let there be no doubting the depth of our sympathy for our fellow States Members and their families who face these difficulties and our thoughts and warm wishes will be with them this Christmas. **[Approbation]** The big event, in political terms, this year was, of course, the culmination of the work of the Electoral Commission into States reform, the referendum on 24th April, and the reform debate before the summer recess. I call this the big event but unfortunately it proved to be the big non-event. It may not have been perfect, it may not have been well-supported but it was, nonetheless, an important thing to get right and we got it very wrong indeed. Not only do we approach next year’s general election with the least representative electoral system, the referendum option that came last, but we have, by ignoring the referendum, given ourselves a lot of work to do in terms of regaining public interest and trust. In spite of this, our system of government has continued to provide stability for Jersey during challenging times for the global economy. While surveys may suggest there is a lack of confidence in the States, we are at least accessible to the public and we do, on occasions, get things done. Our Ministers, Assistant Ministers and their departments have worked hard for the good of the Island, whether for enhanced health care, good education, job creation, Income Support, transport links, new housing projects and schools, sea defences, road repairs - especially Mount Bingham - policing and we may now add long-term care.

Our new Minister for External Relations and others have travelled many thousands of miles with public officials to raise the profile of the Island in the international community and drum up business for our financial services sector and tourism industry. Speaking on behalf of the Constables, I thank the Senators on our right and the Deputies on our left who hold Ministerial office for their work this year. Several Constables are also involved in Scrutiny or are active as Bank-Benchers and we want to recognise the value of the Scrutiny Panel's work during the past year, including the Public Accounts Committee. Both inside the Assembly and in committee rooms, States Members who do not hold Ministerial office have been active in holding the executives to account, with the legislation, projects and policies brought forward this year being stronger as a result. We are also grateful to the countless people who have given the Island the benefit of their time, experience and expertise in serving on the various administrative boards and panels set up by the States. **[Approbation]** We are grateful to you, Sir, and the Bailiff and his staff for the considerable amount of work you do for the wellbeing of the Island and especially for the arrangements put in place for the visit of the Earl of Wessex on the occasion of the 350th anniversary of the gift of the Royal Mace of Jersey; arrangements which included causing the grey skies to clear miraculously, allowing hundreds of school children, among others, to enjoy the special States sitting in the Royal Square without getting wet. Not only this, but the celebration of our liberation was once again immensely appreciated by Islanders and visitors, an event which, under the Bailiff and his predecessors' care, has gone from strength to strength. At this time of year it is usual and entirely appropriate to focus particular concern on the most vulnerable members of our community. While we have lost some of our responsibility for welfare, the Constables continue to try to live up to the expectation of being mother or father of the Parish and we take our responsibilities seriously in this regard. To our senior citizens, to the sick and needy in our Parishes, to those in trouble or distress, we hope that the various support networks that exist in each of our Parishes will provide relief and help this Christmas. That invaluable support is often provided by volunteers and we would like to thank all of those in the Parish municipalities, especially our Honorary Police Forces, for their commitment to the pastoral care that is one of the great strengths of the Parish system. **[Approbation]** Special thanks must go to our churches and the ministers, church wardens, musicians and helpers across all denominations which provide so much for so many throughout the year and particularly at Christmas. The Constables hope that our Dean and Mrs Key will be able to enjoy some time to relax in between carol services after what has been a particularly testing year for them. **[Approbation]** We also pay tribute to the hard work on behalf the Island of all States workers this year, as well as those who work to ensure that utilities are reliably and efficiently provided, our telephone services, our power supplies, the postal service, water and not forgetting the drains. All of these things we may take for granted but they are so essential to us, especially at Christmas. We thank particularly the emergency services, especially those who will be at work while we are on holiday, our hospital staff and the volunteer services, including lifeboat crews, Meals on Wheels, Jersey Hospice, the League of Friends, St. John's Ambulance, the Salvation Army and many others. **[Approbation]** On behalf of the Constables, I want to wish the Senators and Deputies a very merry Christmas. His Excellency the Lieutenant Governor and Lady McColl, the Bailiff and Lady Birt, you, Sir, and Mrs Bailhache, we wish you a very happy Christmas with your families. We wish the Dean and Mrs Key, H.M. Attorney General and H.M. Solicitor General, the Greffier, assistant Greffier, the ushers, tea lady and the media a well-deserved break from their work and to everyone involved in the running of the States and Parishes, a peaceful and fulfilling New Year.

**Deputy R.C. Duhamel:**

In the words of Monty Python, and now for something completely different. I am tempted. In these dark days leading up to the shortest day, many people are affected by seasonal affective disorder and they think dark and morose thoughts and sometimes I think these dark thoughts as

well. In thinking these dark thoughts I thought: "Well, if I were not here in the future what would I come back as?" [Laughter]

**The Deputy Bailiff:**

You are coming back then, Deputy? [Laughter]

**Deputy R.C. Duhamel:**

Yes, I am coming back to the speech as well. I have had a long sneaking admiration for mistletoe and Christmas is probably the best time to give you and other Members some useful thoughts so that we can all play our part when we get to the quiz ... the *QI* session. Serious note, right, parasitism has only evolved 9 times in the plant kingdom and of those the parasitic mistletoe habit has evolved independently 5 times. That places mistletoe in a very, very special place. I think these characteristics ... as I get into it I think Members will begin to see the relevance or irrelevance of what I am referring to. No, that is coming later. The second point, all mistletoe plants are hemiparasitic. That is important because they bear evergreen leaves so that means they are green all the year round. Depending on the species of mistletoe and the species of bird, the seeds are either regurgitated from the crop, excreted in their droppings, or stick to the bill from which the bird wipes it on to a suitable branch to infect the host. The seeds are coated with a sticky material called viscin and the viscin hardens and the seed grows into the bark and there is a firm attachment. So this is the way in. Very, very good sticky materials and you stick like glue. Ecological importance: it is only recently that mistletoe, having often been considered as a pest that kills trees and devalues natural habitats, was recognised with some sterling work as an ecological keystone species, an organism that has a disproportionately pervasive influence over its community. I think that is a cracker. Now, 3 more points: in cultures across pre-Christian Europe mistletoe was seen as a representation of divine male essence, and that is romance, fertility and vitality - it is the white berries, if no one has caught that one. On top of that, the wood has got twice as much potash if you burn it, compared to the host wood, and times 5 phosphoric acid. So it is of very, very important use in concentrating those chemicals. Throughout the year - this is a good one - it may remain physically in countries that speak English, or not European ones. It may remain hanging throughout the year often to preserve the house from lightening or fire until it is replaced the following Christmas Eve. That is quite good; it is left there for a whole year, so it has got staying power. The final one is that young men obviously have the privilege of kissing the girls under it, plucking each time a berry from the bush and when the berries are all plucked the privileges cease. With all those plus points, Members can see why I support the plant massively. But for every plus point there has to be a negative point and the only negative point I have been able to find in the text is this one, and that is the name. The English name is said to be derived from the Anglo-Saxon "misteltan", "tan" signifying a twig and "mistel" or "mist", which in old Dutch meant bird lime or dung. So mistletoe is a dung twig. So we have positives and we have negatives. Where am I coming from? [Laughter] Everybody knows St. Saviour, and I am told it only takes 2 doctors to stay there. Anyway the question I have been asked by my colleagues, and it has been the same question more often just recently, is that is there anything that should be left hanging over a States Member, particularly at Christmas time? The clear answer is mistletoe and that is either as a dung twig or a kissing branch. Two other points, as people might expect, as the Minister for Planning and Environment, although we do have the excellent scheme run by T.T.S. (Transport and Technical Services) - I have to be nice to them at Christmas, he is buying me a drink later - to recycle the surplus trees, I would implore all tree buyers to perhaps purchase trees with roots on and rather than sending them to the incinerator to be burned to generate a small amount of heat or electricity, it would be much better if those trees would be planted somewhere and perhaps dug up in the best Jersey fashion next year to save us the money of buying another one. The second point I would like to offer on the back of mistletoe is that, on the basis of any unspent kisses, you have to



remember that each berry is a kiss and you must pluck it from your mistletoe and spend it. By the way of berries, I would urge members of the public and, indeed, colleagues, to perhaps have a go at seeing if they can fertilise a tree to grow their own mistletoe for next year.

[17:15]

On that basis, I have said enough and before people accuse me for anti-social drinking or drinking out of hours or other things that are worse, I would like to offer from the Deputies' benches our best wishes, Sir, to you and your wife, to the Bailiff and Lady Birt, to Lieutenant Governor and Lady McColl, to the Dean and Mrs Key, H.M. Attorney General, Solicitor General, their partners and wives, the Viscount, Deputy Viscount and others within the court system, the Greffier, the Deputy Greffier and the Assistant Greffier, the ushers, the tea lady and the media, all our very best for next year. Have a very good break for the next couple of weeks and we will see you all, hopefully, in the New Year. **[Approbation]**

### **The Deputy Bailiff:**

For members of the public who are clearly not able to witness the mistletoe which Deputy Duhamel brought into the Chamber, I did notice that it had plenty of berries on. **[Laughter]** Members will be aware that the Bailiff is currently on a long-standing family holiday and I am sure everyone will understand that he is probably much happier to be engaged in that way but he has asked me to say that he regrets very much that he cannot be present with Members today. I know he would want me to thank Senator Routier, the Connétable of St. Helier and Deputy Duhamel, and Members generally, very warmly for their good wishes and I am pleased in my own name and for my wife to be able to thank Members too for those good wishes which are very much appreciated. I was made aware by the Greffier that a former Bailiff, who is possibly still in this Chamber at the moment, once reversed the order of speeches to ensure that he had something original to say. That strikes me at the moment as being quite a good idea because I have just been going through my notes ticking off the things that have been said by the speakers so far and I have nothing left to say at all, but I will say it anyway. 2013 has been a busier year, as the Connétable of St. Helier indicated, busier than last year, although still not as busy as many others in the last 10 years. Unusually, the Assembly has lost one of its sitting Members, Dan Murphy, the Connétable of Grouville, and Members will remember him and, of course, the late Senator Shenton and Sir Michael Wilkes with great affection. There were some 21 pieces of primary legislation which received Royal Assent during this last year, some of those were particularly significant; perhaps the Discrimination Law would be among them, and there is no doubt that the legislation that has just been adopted, the Long-Term Care legislation, will be regarded as significant as well. From a constitutional lawyer's perspective, the Succession to the Crown Law is of interest because it is the first time, as far as I am aware, that the States have legislated concerning the ability of a person to succeed as our monarch with authority over the Island. Sometimes those outside the Island may raise questions about the extent of this Assembly's jurisdiction to adopt the legislation which has been adopted; take the extraterritorial legislation and other legislation of that kind. But the fact that her Majesty has given Royal Assent to a piece of legislation concerning the entitlement of members of her family to succeed to the throne shows any such questions to be unfounded. To go from the sublime to the less sublime, I am happy to report that the income from Members' mobile phone fines has dropped with only 17 offences this year, perhaps we ought to increase the fines to keep the contributions to the Joint Charities Christmas Appeal at their former level. It might have been thought that after the celebration of Her Majesty's Diamond Jubilee last year, the present year would have been something of an anti-climax, but that proved not to be the case. We have had the opportunity to emphasise again our long-standing connections with the British Crown with, as the Connétable of St. Helier said, the celebration of 350 years since His late Majesty, King Charles the Second, gave to the Bailiff of Jersey his Royal Mace in celebration of the Islanders' loyalty to him during the

Protectorate and during the Civil War. That historic gift was celebrated in a number of different ways during the year and a highlight was the visit of His Royal Highness, the Earl of Wessex, in September with the ceremony in the Royal Square enhanced by the impressive production put on by the Jersey Youth Theatre and the magical singing of the Musical Originals. **[Approbation]** As was said by the Connétable, this did not look for all the world as though it would be a reasonable possibility some half an hour or so prior to the commencement, such was the extent of the rain pouring down. But all was well and the brilliance of the event was beautifully captured in the painting by Jason Butler which is now privately exhibited in the atrium below the Bailiff's Chamber. We also had the visit of Lord Chancellor, the Right Honourable Christopher Grayling M.P. (Member of Parliament) and it is good to report that he too was impressed by what he found here and able to reassert the support which Her Majesty's Government in London was keen to provide to the Islands. The very international nature of our business is demonstrated by our other visitors, the President of Madeira, the French Ambassador, the Latvian Ambassador, the Premier of the Cayman Islands, Monsieur Laurent Beauvais, Président de la Région Basse-Normandie and Monsieur Jean-François Le Grand, Président le conseil général de la Manche. We were also very pleased to be able to welcome to Jersey last year the Commonwealth Magistrates and Judges Association and judges from all over the Commonwealth attended and were uniformly complimentary about the beauty of the Island and the warmth of the hospitality which they received. Those visits emphasise that we are more than an inward-looking community and that is so important, particularly as one recalls the death of Nelson Mandela last week who was such an inspiration to us all and whose emphasis on the need for reconciliation between those who have disagreed with each other, often violently, should spur us on to a similar approach ourselves, however intense the disagreement. That indeed is one of the messages of Christmas, whether one has any Christian belief or not. Goodwill to all men and women does not mean one has to agree with them but it does mean that one starts from the position, unless there is really plain evidence to the contrary, that all people have integrity, even if they are advancing a point of view with which one profoundly disagrees. It means that in debate one targets the issue and not the person, however battle-scarred one becomes over time. That is why I can say to the Connétable of St. Helier that the Bailiff and I can accept with pleasure his good wishes for Christmas, even though we recognise that he wishes we were not here at all. **[Laughter]** Let us, therefore, use the Christmas break to good advantage and strive to achieve in our debates, in and around the Assembly in 2014, a small part of the Mandela legacy of reconciliation. I am very pleased that Members speaking so far have already recognised the very hard work that is done by those who help us to do our jobs in the Assembly, rightly has been mentioned the States Greffe and it is a pleasure to be able to acknowledge the helpful and the competent work which members of the Greffe perform **[Approbation]** and the leadership of the Greffier and the Deputy Greffier. Of course, I would like to mention also the Viscount and his team, the ushers and all who serve in the coffee room and who help States Members in and about their duties. So on behalf of His Excellency and the Bailiff, the Law Officers, the Dean, the Greffier, the Viscount, the Chief Usher, all members of their various teams, I thank you all for your good wishes and I wish you and your families a peaceful and relaxing Christmas break. **[Approbation]**

**Senator P.F. Routier:**

The adjournment, Sir?

**The Deputy Bailiff:**

I do not know where we would be without you. **[Laughter]** The States stand adjourned until 21st January.

**ADJOURNMENT**

[17:24]