

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 10th SEPTEMBER 2014

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[9:30]

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

PUBLIC BUSINESS - resumption

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

Deputy Higgins has asked if he can be défaut excuse because of the imminence of the air show.

The Deputy Bailiff:

Do Members agree he should be marked défaut excuse? Défaut excuse.

Connétable P.J. Rondel of St. John:

Can I pass a comment? I was under the impression that this took priority over anything else if you are on-Island. I appreciate the air show is important but he could have come into the Chamber and given his apologies and then go on to his meetings later on and explain to the Chamber himself, I am sure.

The Deputy Bailiff:

This is why I invited any comments from Members. Do Members agree he should be marked défaut?

Senator P.F.C. Ozouf:

If Deputy Higgins gets paid for doing the air display, then any other Member doing a paid job would be criticised. If he is doing it for entirely zero, and it is not clear, perhaps he might be able to report to the Assembly exactly what the situation is because if it is being paid for, then any other Member would be severely criticised for not being here.

Deputy N.B. Le Cornu of St. Helier:

This House has tolerated long absences [**Members: Oh!**] of Members from this House. The Deputy is merely asking for a small indulgence and I think that should be permitted him. The Jersey Air Display is of considerable importance. He organises it and he should be given the possibility to run it; he is essential to it.

The Deputy Bailiff:

We are not going to have a debate about this. If Members feel he should be marked défaut excuse would you please stand?

Deputy J.A. Martin of St. Helier:

May we have the appel, please?

The Deputy Bailiff:

No, we cannot take a vote until we are constituted. Now can I ask Members who feel it would be appropriate to mark Deputy Higgins défaut excuse please to stand? The appel is called for. I ask the Greffier to open the voting.

POUR: 29		CONTRE: 15		ABSTAIN: 2
Senator A. Breckon		Senator P.F. Routier		Senator P.F.C. Ozouf
Senator A.J.H. Maclean		Senator P.M. Bailhache		Connétable of St. Peter
Senator B.I. Le Marquand		Connétable of St. Clement		
Senator F.du H. Le Gresley		Connétable of St. Mary		
Senator I.J. Gorst		Connétable of St. Ouen		
Senator L.J. Farnham		Connétable of St. Martin		

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

The Deputy Bailiff:

The Deputy is marked défaut excuse.

1. Survivor's Benefit: repeal of 2012 changes (P.122/2014)

The Deputy Bailiff:

We now turn to P.122/2014 - Survivor's Benefit: repeal of 2012 changes - lodged by Deputy Southern and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Act dated 6th December 2012 in which they approved the Social Security (Amendment of Law No. 4) (Jersey) Regulations 2012 and agreed, *inter alia*, to restrict access to survivor's benefit to those surviving spouses or civil partners who had the care of a child or who had attained the age of 55 before the commencement date of Part 5 of the Regulations, namely 1st January 2013; and (a) to agree that the measures relating to survivor's benefit approved in December 2012 should be repealed and that the benefit should be restored without conditions in the form previously set out in Article 24 of the Social Security (Jersey) Law 1974 pending a full consultation through a Green Paper process on the subject; (b) to request the Minister for Social Security to bring forward the necessary legislation to give effect to the proposal in paragraph (a) and to take the necessary steps to commence the required consultation process.

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

Thank you to Members for allowing me to postpone this particular motion. I am back and fit, although I do not know about 100 per cent. I have an ear infection and if my volume goes up and down sharply then it is because I cannot hear myself. A rescindment is a serious matter and I do

not bring it lightly. I bring it because I think there has been a serious mistake made and I bring it so research can be done in order to see what options there are on this particular issue and how we might proceed, and not to apply the decision we made back in 2012 which I believe is an unreasonable one. When we accepted the Minister for Social Security's amendment to the Social Security Law on survivor's pension the Minister put forward 2 arguments. He said that the scheme itself was generous and he needed to save money and this is the crunch of the issue. The Minister for Social Security has made a commitment to save, first of all, £3 million from the Social Security budget and then a second commitment, a second £3 million; I think it is in total £6 million savings, at a time when conditions for people in the Island were getting worse. A lot of unemployment, a lot of difficult situations, people reliant on food banks, so it was a very difficult decision to make. I take nothing away from the Minister for Social Security in managing to do that. He also said that it was old fashioned, that it is an increasing participation of women in the workforce making survivor's pension irrelevant. To both of those 2 I would have said: "Yes, that is happening but there are still lots of women around, largely in their 50s, who may not have worked for 20 years, and technology as such to upskill themselves is very difficult. The fact is, as I demonstrate with the statement from one particular 54 year-old: "It is almost impossible to get an interview, certainly to get a job, as a 54 year-old woman." It is a very difficult thing to do. There are a lot of young people out there prepared to work and apply for jobs; 50 year olds, 50-pluses are seen as not employable or difficult to employ. The argument I put forward is one in which there is an implied contract between the Government and the people who pay contributions compulsorily at 6 per cent throughout their working life to the Social Security scheme. They do so in order to gain benefits in the long term. One of those benefits is obviously a pension; another of those benefits was the widow's or widower's pension, now named survivor's pension, and 75 per cent of those claimants are women. In some cases, whether through a red card or through their husband's contributions, some of these women, survivors, have paid in 30 years of contribution in the expectation that the Government will honour its side of the contract to deliver a set of benefits, one of which, although people do not think about it all the time, is a survivor's benefit. So you can have paid 30, 35 years of contributions to be told, as one person was via the newspaper, that that had changed, it had gone, was indeed a shock. It was a shock to one particular family because the husband, who is substantially older than his wife, he is in his late 60s, had just been diagnosed with a tumour of the brain. He was aware that his wife who was in her 50s was going to become a survivor, a widow. He read in the paper that one of the benefits which he had talked about with Social Security previously when he was diagnosed as suffering from this tumour had been withdrawn and he was, quite frankly, shocked. He is still receiving treatment now but he will not be with us much longer and he has seen what he has contributed as taken away from his soon-to-be widow. I think that is a shocking thing to have happened. It is not the only person to whom it has happened. I wonder how many people in their 50s it has happened to. We have not got research.

[9:45]

When we debated this first time around we got into an argument about at what age it was appropriate to say that survivors must seek work. We had an argument over whether it should be 50, 55 or 57. I went for 50, the Minister for Social Security went for 57 and Deputy Young went for 55 and typically in the States we often go for the compromise position: 55 will do. But that was the sum of the debate. It was about what age it is appropriate to do this; it was not about the principle. But, hang on, when people have paid in 6 per cent compulsorily into a scheme which we have devised to allow them to claim a pension and the survivor's pension, to be told suddenly that one of those benefits is gone is really not fair. I think that is unreasonable behaviour. If this were a works pension, the people running the pension would be negotiating with their workforce about one of the ways to institute change which would be to close particular bits of the scheme to new entrants. That is the normal way of doing things. So from now on new entrants will not get this

particular benefit or that particular benefit and that is what I am suggesting here. We have to take this away, look at it again. Now I do not know what the numbers are between stopping it now and eventually nobody will be receiving it and stopping it to new entrants and in some 40 plus years' time there will be nobody receiving it. It seems to me that those are 2 ways of delivering this change, if that is an acceptable change, one of which I believe is unreasonable and one of which is more like normal practice. But it is interesting, when I was looking at this proposition, to see how it was in fact the work entirely of the now Minister for Social Security but started when he was a Back-Bencher where he has brought forward one, 2 and now 3 things which he says: "This is the best way to save money" and the aim is saving money. In particular, when he brought as a Minister P.105 of 2011 he was requested to carry out a comprehensive review. Unfortunately, he did not do that, so this House was aware that we needed some more research on this to find out what the consequences would be and instructed the Minister to carry out a comprehensive review. When he came back with his propositions he said on page 4 of his report: "It was not possible to undertake a complete review of survivor's benefits within the timetable proposed by P.105." We asked him to do a comprehensive review, he said: "I cannot in the timescales." Nonetheless, he went forward with his proposals. So this rescindment says: "Let us do the research." We have acted without the research; I think we made a mistake. I think we should take time to go back, review that decision, do the research, see what it means, look at some alternatives - alternative ways of delivering this particular saving - and see if we can get it right because I believe we have not yet. That is what this proposition says. It does not say: "Walk away from this and forget it, we are going to restore it." It says: "Let us halt this process while we do the research. Let us have a Green Paper, let us have the population properly consulted." Has anybody talked to people who have been bereaved recently? Has anybody talked to this aspect? Has anybody talked to how readily over-50s women can get work? Have we researched that? No, we have not. Have we researched the relative costs in terms of savings of delivering one way or the other? No. A generous benefit, have we investigated how to cut that down perhaps? We have not. The research has not been done and I think that is a serious failing. In the Minister's own words he points out that we tinker with Social Security legislation at our peril. It is very, very complex actuarially, financially and pragmatically practically very, very difficult. Just talk to anybody who has to deal with Social Security issues time and time and time again, as I do, when they go down to Social Security and leave none the wiser. The Minister said: "Social Security benefit legislation is complex. Changes to legislation must be carefully planned as they affect a large number of benefit claimants. The suggestion in the report accompanying P.105 that a Green Paper should be published on this single topic will need to be carefully considered. In order to provide the general public with a realistic range of options and sufficient background information to understand the finances of the Social Security Fund and the relative implications of different proposals, a comprehensive paper should be made available." That did not happen. This proposition says: "Go back to that and make it happen. Do the research." In terms of the relationship that I am talking about, this contract, this implied contract, this social contract between us, the Government, and the governed, and certainly the contributors to Social Security, were addressed by this Minister when he said: "These proposals will have no impact on the entitlement of existing claimants who will all still continue to receive survivor's allowance, or survivor's pension, under the current rules." That is those who are already claiming who have been bereaved. Those who are already paying and have paid for substantial numbers of years, are also, I believe, entitled to have their relationship acknowledged. You have paid in, you should get what you paid for. Senator Le Sueur, the previous Minister, had this to say about the relationship. He said: "If the Jersey Social Security scheme is to maintain its credibility, we must ensure the benefits accrued by those already in the scheme are honoured and at the same time introduce changes which will benefit our society in the future." Wise words indeed: "We must ensure that benefits accrued to those already in the scheme ..." and I believe "those already in the scheme" means those who have contributed often for substantial years: "... should be treated

reasonably and that their benefits are honoured.” An interesting word: “honour”. Again, in another particular document Senator Le Sueur said: “Changes to legislation must be carefully planned as they affect a large number of benefit claimants.” Be wary of going in without the required research and changing things in a perfectly acceptable aim to improve things and to make things better, in this case to save money, because we know that the Social Security Fund will peak and will diminish unless we do something. There are lots of things we can do, perhaps this particular one is not something that we should do. The Minister said: “Rescinding this decision would create a significant additional financial burden on the Social Security Fund leading to the need for cuts in other benefits and/or an increase in the contribution rates.” There are a lot of ways of doing things. We already have the contribution rate under consideration. We have a ring-fenced fund starting at 0.5 per cent for long-term care. There has already been one increase. We have already put an increase over the earnings level of £47,000 for employers to pay an extra 2 per cent for highly-paid employees. We know we could adjust the ceiling at £47,000 and we could, if we wanted, introduce charges about that limit because nobody pays anything at the moment apart from this 2 per cent, and that would produce substantial income. So there are ways we are already looking at. We could, and we have done it, extend the age at which you can claim the pension to 67; that stretched it a bit. We could talk, and we will talk, about increasing contribution levels to make sure that this becomes a totally sustainable fund. We are told that we reach the breaking-even point in 2016 when income and expenditure is going to equal expenditure. I would suggest that that is a perfectly adequate timetable. It is tight but here we are in 2014, rescind this, do the research 2015, come back with a new scheme to deliver the savings 2016 and here we go. In the meantime, as we know, we will have to take a look at the overall funding, the overall structure of the fund, and there may be major things we have to deal with it. So this, while admittedly does not help that situation, can be done. We might look, for example, go back to that thing, the statement about: “Further, the benefit was too generous. It could pay a widow or widower the standard rate of benefit over a period of decades until they reach their pension age with no element of means testing.” So, question mark, is it time to introduce means testing into some of our benefits? That is another solution: should be in a Green Paper, should be discussed, should be investigated and should be consulted on with the people who are paying in. The only scrutiny that this particular measure has got was it was notified to the Social Security Advisory Council. It said that the Advisory Council is able to offer an informed perspective independent of the department. In fact, the Advisory Council is a body of lay people who have got no particular expertise necessarily in pensions or in actuarial matters. It is a commonsense piece of advice that they can give because they are all, as I say, ordinary laymen. In fact, when they produced their advice they said: “Well why do we not just phase-out survivor’s pension for all, including current claimants?” It seems to me that that sort of advice shows a lack of sensitivity and a lack of what is possible politically and yet that was the only scrutiny it got. The Minister himself in his statement on page 6 of his comments says: “That said, I fully accept that there is a social contract between contributors, benefit claimants and the Social Security Fund. As the Minister for Social Security, I take this contract very seriously. It is my responsibility to protect the long-term sustainability of the fund, to make sure that the fund continues to provide pensions and other benefits into the future; to adjust both contributions and benefits in line with changes in our society and with the ability of workers to meet these costs. Workers who are making contributions now need to be confident that they will be able to draw a pension in their old age, just as they are supporting the current generation of pensioners.” Absolutely vital.

[10:00]

If one replaces the word “pension” with the words “survivor’s pension” for the moment, you see the nature of the contract and the respect which it is being given. I believe that contract, that social contract, is there and I believe it should be upheld. I believe we have made a mistake, research has

not been done, this rescindment motion says: “Go away, think again, do the research and come back with something that you can back up.” At the moment we are talking survivors, mostly women, faced with the prospect in their early 50s of rushing around and seeking work if they have not worked, of re-training, re-skilling themselves, faced with difficult situations and a benefit for which they have contributed, often over long years, removed from them and finding out only when it appears in the paper because no consultation took place and no flag-waving saying: “Look out, have a think about this, this is what we are planning to do.” Did not happen. Senator Le Sueur said: “Changes to legislation must be carefully planned as they affect a large number of benefit claimants.” I have heard from 3 claimants who fit this exactly, as I have there: “Not such a merry widow.” The death of her husband occurred only a matter of months after this decision was made. It came as a complete shock out of the blue to her that she would only get a year’s comfort from survivor’s allowance and she would not get survivor’s pension. I have talked about the other person who is older than his wife, his wife is in her early 50s, exactly the same situation, and he learnt that this was going to happen. He was extremely upset by the actions of this Government. I have heard from another person who says: “I would come forward because I have been severely hit. I maybe have to sell my house. I do not know what I am going to do yet but I work in a government department and I fear if I make a fuss I may lose my job.” That is the reality of what is happening out there. I urge Members to support this rescindment. It does not say: “Put this away and change our minds completely. Do not do it.” It says: “Do the research, come back with the evidence. There is time before 2016 to decide what the right way forward is and let us see if we can get this right” because we have got some much more serious and expensive changes to make to the Social Security Fund. Let us please get this starting point right before we move on.

Deputy R.G. Le Hérisier:

I wonder if I could raise a point of order. I find the *curriculum vitae* quite worrying because it is very, very easy to identify the individual who is the subject of Deputy Southern’s research. Is it right that this material be published?

Deputy G.P. Southern:

May I contribute? I consulted extensively with the person concerned and took out all the names and, yes, she was perfectly content to be public about this. In fact, she has done an interview - I do not know when it is going to be shown; maybe it has been shown - with television. She is quite happy to go public with this and was happy with the format that I have proposed. It has been authorised by her.

The Deputy Bailiff:

It seems to me there is no ruling to be made immediately because what is done is done. But it may well be something that the Privileges and Procedures Committee might want to address so that proper procedures can be considered. That is not to say that these are not proper but the matter should be considered. Is the proposition seconded? **[Seconded]** The proposition is now open to debate. Minister.

1.1.1 Senator F. du H. Le Gresley:

I am delighted that Deputy Southern is feeling better this morning and I am delighted that I am feeling good this morning as well to defend the department’s position. I am sure Members will not be surprised that given my involvement in researching and revising survivor’s benefits that I strongly oppose this proposition to rescind the changes we made in 2012. I am also at this very early stage very concerned that the 3 Members who signed the rescindments voted in favour of not only the principles but also in the Third Reading for the amendments. I find that very strange. Although one of them is not here today, I do hope I hear from those 2 gentlemen - a Deputy and a Senator - because I would really like to know what is changed because this is what this proposition

is all about. What has changed that we need to have a rescindment? As Deputy Southern has said, I first drew the Assembly's attention to the weakness of survivor's pension when I was a Back-Bencher back in 2011. Deputy Southern has chosen, in not only his proposition but also in his speech this morning, to refer to a quote that was in my original proposition from a former President of the Employment and Social Security Committee, former Senator Le Sueur. Of course, as always, it is always easy to use quotes when you edit them. Again, we have a situation here where the Deputy has decided to edit my quote but I will give Members the full quote which I found in my original proposition also in P.101 of 2012. The full quote was, and these are the words of the former President back in 1995: "Social Security schemes must change with the times if they are to continue to serve society as a whole. Within the workplace the proportions of women are increasing. Within the family there has been a move away from the traditional male head of household role and divorce rates have increased, as has the number of single-parent families. In short, this could mean that more people may not be fully covered by the scheme in future as it is based on traditional concepts of continuous full-time employment and the male as the head of the household." Now we did not hear that this morning and it is also not in Deputy Southern's proposition. So for me the issue is quite simple: this benefit was too generous. It would pay the standard rate of benefit to a widow or widower from possibly a young age right up to their pension age irrespective of their income and country of residence. The generosity of the scheme is rooted in the Insular Insurance (Jersey) Law 1950 and the benefits of widows. It operated alongside Parish welfare long before we had income support benefit. The benefit, as I said from that quote, reflects a time when women were expected to be dependent on a male breadwinner. But now, and this is confirmed from the 2011 census, 77 per cent of working-age women are economically active, which is only just behind the men figure of 86 per cent. So in 2012 this Assembly introduced a new eligibility condition for survivor pension. In future, survivors only move at the end of the first year of bereavement from survivor's allowance to survivor's pension if they had a dependent child. That is defined as a child of compulsory school age or aged up to 25 if still in full-time education. When we debated the change in December 2012 we acknowledged that older people might find it harder to adapt under the new rules. It was argued, as it has been this morning, that younger people are much more likely to be in work, would be able to find work, and would have more time to adjust their finances and plan for the future. So what we put in place were transition arrangements and I must stress the word "transition". It was not as perhaps alluded to by Deputy Southern in his opening speech this morning that we exempted anybody once they reach the age of 55. That was not what we agreed. What we agreed was transition so that older people, men and women, born on or before 31st December 1957, would receive a survivor's pension under the old rules. This transition has therefore delayed the savings which would be made to the fund but we agreed on that day that it was appropriate. But, most importantly, survivor's allowance was not affected so all survivors continued to receive this benefit for the first 12 months irrespective of dependence. So the allowance is paid at 120 per cent of the standard rate of benefit and during that time the survivor receives full credits on their contribution record for that year. That is very important because while I do not wish this morning to go into the particular case highlighted in the Deputy's report, I must stress that a woman who was married before 1st April 2001 who took the married woman's exemption, which this particular lady did take, did not pay any contributions, was not required to pay any contributions. Therefore, when the survivor's allowance kicks-in they receive full credits for a whole year which in most cases, almost without exception, would entitle them to other benefits going forward after that year is completed such as short-term incapacity, long-term incapacity, *et cetera*. That was a very generous arrangement for married women, I should point out, who married before 2001. You could ask yourself in this day and age is it fair? Is it fair that that group of women - and there is quite a large group of them - do not pay contributions? They work alongside their colleagues in offices and their colleagues get 6 per cent deducted and they pay nothing. Is that fair? Is it fair that survivor's allowance is not available to couples who co-habit?

Is that fair? Is that something we should change? We have rules in Income Support which allow co-habiting couples to have benefits but when we come to this particular benefit we say: "No, you have to be married or in a civil partnership." That is something perhaps we need to look at going forward. There are lots of things that we need to consider in the round when we will be next year reviewing the whole of the benefits paid out of the Social Security Fund for the reasons that we all know: the pressure is on the fund. So what I need to know, and what Members need to know, what has changed since we made those decisions in December 2012 that would warrant a rescindment? As the Deputy has quite rightly said, this is an important debate. You do not bring a rescindment motion, which this is, without good cause, without facts, without information. This is sadly lacking in this proposition. I maintain that the amendments we made were fair. They were part of the C.S.R. (Comprehensive Spending Review) process, they were thoroughly considered and that even if we re-visit all the data, if we look at all the other jurisdictions again, if we undertake a wider consultation as the Deputy is proposing, we would still reach the same conclusion. We have been criticised as a department for lack of consultation, lack of research. Now I do have a report here which was carried out by an outside agency: *Background Report on Survivor's Benefits*. This was a review of survivor's benefits in other jurisdictions and nowhere was it found that anywhere had such a generous benefit as Jersey. When I brought my original proposition as a Back-Bencher I researched the Isle of Man and Guernsey and again our benefits stood out as far too generous in relation to what the other islands were doing. So these changes have been in place for over a year now and my officers have examined each new claim for survivor's allowance and looked specifically at those which did not progress to a survivor's pension because of the new rules. Now as it says in my comments, some of these people were living overseas and some were living in Jersey and therefore entitled to income support if they had been here for 5 years or more. Not one - not one - of those claimants subsequently claimed income support. So if we are talking about hardship, if we really believe there is hardship, we would surely in a full year have received at least one income support claim from somebody who is not entitled to survivor's pension and we did not have one. I do recall during the debate on the first proposition that it was said: "This will create hardship. It will create a burden on the income support scheme and on the taxpayer."

[10:15]

The evidence for the first full year is there has been not one claimant of income support. So Deputy Southern has again suggested this morning that there is a contract; there is a contract between those who are currently in the scheme and paying, those who are receiving their pensions and anybody who is 18 from today becomes a member of that scheme as they take out a card and start paying contributions. I am sorry, but I have to squash that notion. It is just not possible that we as an Assembly can manage the Social Security Fund responsibly and develop benefits in the line with the needs of contributors and pensioners if we cannot make changes. We have recently received the Government Actuary Report on the condition of the fund and also the Health Insurance Fund. We have been advised that we must start considering changes to ensure these funds remain viable for the future. The next Assembly will be called upon to make very difficult decisions regarding benefits we wish to pay, and the level of contributions required to make these benefits possible. We have a stark choice: pay higher contributions which clearly is what Deputy Southern would like, or receive lower benefits.

Deputy G.P. Southern:

You cannot put those words into my mouth. I have never said I would like to do that. I have said they have to be considered.

Senator F. du H. Le Gresley:

I will make sure because I did write it down at the time. The Deputy suggested in his opening speech that we should introduce a higher contribution rate for employees above the standard earnings' limits; that we should consider adjusting the ceiling. I would say that making those suggestions if you like, is giving a strong indication that increasing the contribution rates is the way to pay benefits in the future. But we cannot leave the *status quo*. If we do not make the changes to the Social Security Fund by 2046 we will have no money. So the young people who are paying in today will not have a pension, which is clearly unacceptable. It is not easy to bring a proposition, not only as a Back-Bencher, but also as a Minister, which removes benefits from people who have experienced a tragedy by losing a partner. But sometimes this Assembly has to make tough decisions and for the right reasons. Local residents on income support or low income will always be supported by our benefit system. As I explained in my original report, income support is available to a homeowner and the amount they would receive is very similar to the average value of survivor's pension. The reality is that we can no longer afford to pay a non-means-tested pension to working age people until they reach their own pension age. Again this morning the Deputy has suggested that we should have perhaps the introduction of means-tested benefits within the Social Security Fund. This would be completely breaking away from the tradition that they are not means tested. Perhaps he would like us to introduce a means-tested pension, old age pension. That would save an enormous amount of money, but I do not think he would like to see that happen. Means-tested benefits only apply where they are tax funded. So in summary, do we want to change what we have agreed? Is this Assembly so weak that within one year of bringing in changes, much needed changes to this benefit, that we roll over and say: "No; 2 or 3 people have complained because they are not receiving the Survivor's Pension?" Therefore we change the whole scheme again, or we stop the scheme. We reverse everything we have done because of a number of complaints that have come to Deputy Southern's attention. We knew - I am sorry, but we knew there would be people who are close to 55 who would not benefit from the Survivor's Pension when we made these changes. It is no surprise that some people have been affected, and it is sad. Of course it is sad. But this Assembly has to make decisions with our head. I am sorry, but yesterday I stood up at the end of the debate about the Women's Refuge and I said to Members: "You know, you are going to vote with your heart. Where is your head?" Your head is saying that in that particular case lengthy discussions have taken place with the trustees and it has all been signed-up, all agreed, and then within a few months this Assembly with their hearts, without thinking really about the issues, no evidence, no accounts, nothing, we - or well, I did not vote for it - but the majority of you voted to give them the money. If today I am faced with a situation where the heart again overrules the head, I am very, very disappointed. It has been a tough job being the Minister for Social Security. I have made some tough decisions. Tough, tough - people thought I would be soft. I am. I know, I was told: "You will not be any good as Minister for Social Security. You are too soft." No, I make tough decisions. I got rid of the - I think I am allowed to say this, but if you do not like the language I will withdraw it - the bunking-up benefit. The bunking-up benefit. What was that all about? Income support. So we now have a 5-year rule for all adults because it was known in the pubs and clubs of Jersey that if you bunked-up with a mate who was on income support they could pay £91 a week to you. That was the bunking-up benefit. Now I told my officers I am not tolerating that. I am sorry, but that is not on and we stopped the bunking-up benefit. You all voted for that. So if people do not like the decisions I have made, tough decisions, well, I accept that. I have had my time in office, but I feel very strongly about this benefit. It was and probably still is too generous, but we made the changes. Please, I appeal to you, do not back down and go along with this rescindment motion.

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

When I first became elected into this House at the end of 2011 one of the earliest major measures I recall being presented with was this amendment to change the law - the change to the law that the

Minister for Social Security had brought consolidating the private Member's proposition he had brought, certainly before I came into office and probably quite a number of other Members. Frankly my immediate reaction was really quite concerned about this because there is no question obviously. The Minister refers to societal change, how the patterns of life, marriage, partnership, working patterns and so on have moved over the years. But I really was worried about the timescale of that; the fact that there are bound to be people caught up in that who are very much of a much more traditional lifestyle. I certainly was looking to how we could protect those people who through no fault of their own, either through home circumstances or probably government legislation - we had all, you know, favourable tax reliefs for married couples, we encouraged young women to get red cards and not pay social security for donkeys' years. We did all those things. It is going to take time for that to phase-out. So I think I was certainly looking when that measure came along to find measures to mitigate that change and to find ways of phasing it out. Of course at the time I understood that we desperately needed to do something about public expenditure and I went along with the view that previous Assemblies had made choices through the comprehensive spending reviews, and therefore this change had to be made. I knew nothing about the status of Social Security by myself. So the best thing I could do, I brought an amendment and I successfully amended. This House backed my amendment, to provide protection for those people who were the age 55 - above 55 as Deputy Southern has said. That was pretty well the only argument we had in this Assembly... **[Interruption]** So I brought that amendment. But of course at the time I did not think it went far enough. Maybe I was not very expert at drafting amendments and perhaps I should have been faster in looking at the small print. The devil is always in the detail, and after I had lodged it and looked through I realised, oh dear, that the transitional arrangement protects a temporary cohort of individuals. So from the moment that amendment was approved that group was phased out and became less and less. In hindsight I do not think that transitional arrangement went far enough. I think what we are dealing with here, let us not get away with it - we are dealing with the sad, tragic circumstances whereas in families a tragic early death that occurs of a spouse or a partner, because with life expectancy as it is you do not expect people to lose their lives in their late-50s or mid-50s even. Thankfully with health services and society has improved, it may have been in decades gone by; it is not now, thankfully. Of course, when those tragedies occur and I think it does affect both men and women, I do not accept the position that it is just a sexist thing, it affects surviving partners of both sexes and it is a reality. People of advanced years find it difficult to enter the workplace when they either lose their jobs or have not got established careers. I think ageism in the workplace is rife. Anybody with any sense, the sooner we get age discrimination legislation on the books the better. I see it is on the end of the priorities. **[Approbation]** Because how we can treat people of more advanced years as dispensable and not important to the community, we can waste their skills, I really do not know. But it is a fact that when you are particularly in a recession when you are competing for jobs with very, very strong competition - and you know people want to employ young people, and of course they do because it is about the lifeblood of society. So we got ourselves into this situation where we have got a very great problem. I do not have an answer to that, but it is no question. It is a fact that people of advanced years trying to re-enter the workplace to recover their situation after a loss or a tragic loss of a spouse or partner, face that difficulty. Of course the Minister's figures show that themselves. If you look at the Minister's comments, what he tells us is that there were 80 people - I am not sure of the timescale of that, but they are just the ratio of that that matters - I think that is 2013, probably 80 people fell into this situation. Thankfully because of the amendment 47 people, by virtue of the transitional arrangement that we made, unsatisfactory as it is and phasing-out as it is, so over half. But of course it is obvious that that percent, that proportion is going to fade away. It will not be long before it is none. The situations still arise. The Minister in his comments says it is outdated, based on early society when women were provided for by their husbands. Of course we had the red card situation. We encouraged that approach to things where women were encouraged: "Well, do

not worry. Your husband is going to pay for your social security and you will be all right.” The husband believes that is the case. I cannot remember when that was taken out. I think it is around in the late 70s somewhere, 1975, 1976, somewhere like that. Thankfully that was absolutely the right thing to do. But it is no question; we encourage people to do that. Now this came home to me because when I brought my amendment I did not have in mind any individual. I generally think as a policy point. It really came home to me after the States approved that amendment. I had a phone call from a person - and I am not going to give you enough information because they are very well known and you would be able to identify them if I did too much - but they said to me they were suffering from terminal cancer, their family circumstances were exactly as I had spelt out. The other partner to the marriage had never worked, to care for the children and this was something they were having to face.

[10:30]

That person phoned me to say a sincere thank you. I was really moved at that because I had not expected that. That person now is no longer sadly with us. So I think these things have a real human cost and I think when we are dealing with this there should not be an argument between Deputy Southern and the Minister, a personalised argument. Put that aside. So looking at the costs, I absolutely agree with the Minister, there is a financial issue here. Of course I looked at his report and I congratulate him on it. First class report reading for 2013. I encourage all Members to read this because there are big issues about funding in Social Security. It brings together for the first time, the Minister says, the cost of tax-funded benefits and Social Security contributions. When I look I see total up, £360 million a year paid for by the States supporting our community. I think: “Wow, that is good. What a supportive society we have created.” Full marks, you know. Shows the commitment that everybody knows runs - a strong social commitment through this Island. It is about looking after our people. But when I started to really get questions, when I looked at the charts in there - there is a nice chart in there; I recommend it to all Members - it shows the amounts, if you like the pockets of money on the various benefits and where they come from, and frankly it is all over the place. You look at that and you think: “Well, why should this not be Social Security funded? How is it that this is tax benefit funded?” and so on. There is absolutely a case for a review of these whole funding benefits. So I think this adds to the proposition. The Minister is saying: “The proposition we have will need a review of contributions.” I think there is a case anyway. Looking at his report, in the box “Survivor’s Benefits £4.7 million” he says. So that is 1 per cent of the total benefits that are being paid. That is the proportion. I ask myself when we have 50 per cent, £180 million from tax revenue and just to explain that, it is not income support only. There is obviously supplementation; there are all sorts of things in there. There is obviously a case I think for looking at that review. Of course there are a few safeguards. I think I noticed in the annual report it also says that with these Survivor’s Pensions, hopefully - I cannot read the words here - it says: “Survivor’s Benefits are not paid if the survivor remarries, cohabits or enters another civil partnership and ceases when the survivor reaches pension age.” So that seems to be eminently sensible. When I listened to the Minister I was really upset, really disappointed, because I think he has been a brilliant Minister for Social Security. I wish he was staying; I really do. **[Approbation]** I think on this particular matter - because I admire his passion, I really do, and his commitment - but I worry, is this a case of him being a dog with a bone? You know, will not let go. Original proposition to save money in response to a situation and then gets it through and then Members come up and say: “Hang on a minute. There is an issue here.” Could he not please be prepared to consider that on this occasion he might not be right and be open to review to have this looked at? I think, though yes, it is about heads - we must head, and of course when you look at this chart your head tells you we have to look at this contribution structure. I say now, I would find it difficult not to review the contributions, particularly with regard to the earning ceiling, because I think that is something that

frankly is the only way. When we have a Zero/Ten situation where we have no corporate tax, the employers' element is one of the only ones we have of ensuring that corporate businesses make contributions to the running of our society. That is what I say, corporate businesses that do not have locally-owned shareholders. Locally owned shareholders of businesses, of course, pay their full whack. Where we have businesses with off-Island shareholders there is none. So that Social Security mechanism is important and I certainly am behind having that review. But that is not a reason for saying no to Deputy Southern. In my view you are saying yes, we need to look at it. It is part of the picture of things that we have to make sure we have got right. So I ask Members on this occasion and I am not one of those who just support Deputy Southern and say: "Right. He is pulling me" and just wants to challenge the Minister. No. I think there is logic here that we should not dismiss. So I support it.

1.1.3 Deputy J.A. Martin:

I totally agree that this is not an argument between Deputy Southern and the Minister, and I think they both have it wrong, and I should tell you why. When the Minister brought the original proposition I tried to do an amendment; and I sat down as I always do with the Minister first with his Assistant Minister, and the amendment was to look at cohabitating couples who for years cannot have the red cards; they are both contributing and they are not covered by this. They said it would be tough, but when I spoke to the Law Officers they could not write the law because under Jersey Law, it is quite acceptable if you are married that any child of that marriage would be the child of that marriage, and they always are; of course they are. But if you are cohabitating, and even if the father had said he was on the birth certificate, because you only cohabit there would always be a question mark over the child's father; and it would go down the road of D.N.A. (DeoxyriboNucleic Acid)s and it got very complicated. But why I say Deputy Southern and the Minister are wrong, I was assured by the Minister at the time there would be a lot more research into these cohabitating couples and who is contributing and who is falling out. At the time I pointed out 2 cases: a cohabitating couple where the partner had died with a child, got nothing; a married couple who were separated had a child - they had never divorced - they got the Survivor's Benefit. Absolutely. I agree the Minister is telling me he is tough but fair. This is not fair. So the research that he promised me and I think he promised everybody, has not been done. I think Deputy Southern, you do not keep changing laws because you find suddenly somebody is caught out on their age or caught out because the child, or as I say they are cohabiting for years. So I want - and it will not be this Minister - but I think that Deputy Southern will be hopefully here after the October election and I hope to be here after the election. This is an area that has now come to surface again which could be tough, but it definitely is not fair. So it needs a good study and I think the second part of Deputy Southern's proposition with the way that it is worded it probably has to be voted on together, an in-depth review because we do cut. We cut quickly and we do not realise where we are cutting, and we are leaving a lot of people out. As I say, it cannot be right that if you have been living together for years as a unit. I had this discussion with someone the other day and they said: "Oh, well, they changed their name by deed poll and they have been down to Social Security and they will be recognised as their spouse if they go." I said: "Well, I do not know who is advising you, because there is no such thing as a common law wife. You can live together as many years as you want and there will not be as many rights." I am not saying they should all be right, but this is one where we need to really look. So I think as the Minister would say, I am speaking with my head and I am listening with my heart, and I will hope there will be a lot more investigation into this. But I cannot support Deputy Southern because he is just revoking it back to where we were 2 years ago and it has only really just come in. But I will take the Minister to task. He is not going to be here but he can instruct, and I hope he has instructed his officers to look into this big part and where it should be. Another thing is this 2001 law; I thought it was 1999. We still have a big cohort who do not know that this could affect them because they are encouraged; they

have always been encouraged, and it never finished in the 1970s, sorry to tell Deputy Young. I think there is some sort of sting in it; I do not know. Deputy Young, yes. There is a lot of research in different benefits and I think the Minister is trying to be, in his words, tough but fair. But when you are doing something quickly and you have a short term, and I know he has done what I think he said in the time he was in here, and there is a lot of others. He has made a decision not to be here and we will get another Minister for Social Security whoever that will be. But they have a legacy to carry on and look at all these cuts and where everything needs to be directed, as you say, either means testing or some benefits the Minister seems to have found; I do not really know what he is talking about - he has found them and he has stopped them. So that seems very sensible. But this one is one of those. Deputy Southern goes too far and the Minister at the moment has not gone far enough, and I know he has spoken. His Assistant Minister has not spoken; so hopefully she can assure me that this will be up top priority there and reviewed in the next session.

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

Like many I was an individual who supported the changes to Survivor's Benefit and I think the amendment that was brought at the same time. The Minister is right that we had an idea, or knew that some people would not be eligible. But there is a but. But we also know that when you construct a benefit that it cannot be and should not be that inflexible that it cannot provide for those with a genuine need. I think that we were all expecting the Social Security Department to have and provide sufficient flexibility within the new arrangements. But those, and I stress, who are facing and will face genuine need are supported. We cannot and we must not, or we must, should I say, be careful not to allow money to become a bigger priority than supporting those in need. I am not simply focusing on those with low income, although it is absolutely important that we have a benefit scheme to support both. But we must equally recognise that there are many who are not and will not be eligible for income support, but will face and do face some significant challenges in their life. I think the Deputy has quite rightly highlighted one significant challenge, and that is the loss of a partner before their time. It is a tragic event and it can have a significant impact on that couple's lives which cannot be underestimated. Many people not only strive to bring up families, but strive to provide a home for their family. A couple generally plans together how they will fund and provide for their family. The loss of a partner before they reach retirement is significant. It can have a massive impact. The financial impact does not just end when their children leave home, because that is one relief potentially because of increased cost. However mortgages continue. The Minister says what has changed? I would like to remind him a lot has changed. In fact, even he has highlighted a number of issues that have changed and we are told that next year we must consider increases in contributions and, wait for it, and/or a reduction and restriction in the pensions and benefits paid if we are to maintain the sustainability of the fund for future generations. So that is one major change. I would like to remind the Minister for Social Security, we have also agreed to introduce the long-term care charge that kicks off next year that we are all going to be required to contribute to. When I say "all", okay, he is shaking his head.

[10:45]

All of those in income support and have properties above £420,000 will certainly contribute to the fund. Maybe there is a system ...

Senator F. du H. Le Gresley:

All taxpayers.

The Deputy of St. Ouen:

Right. All taxpayers, which are generally those that are not on low incomes. I will not ... I hate to use the word "middle-Jersey" because I think it is too broad a description but there are a lot of people that sit outside the income support scheme who contribute and pay tax that will and do face,

and have faced significant changes to not only the tax system but the contributions in recent times. Those costs are rising and it is extremely difficult, and they are finding it more and more difficult. They must be considered. You cannot ignore their circumstances. I absolutely agree with the Deputy that the whole system needs to be reviewed. The whole system, not just focusing on, what is it? The pensions and benefits but all of the other contributions.

The Deputy Bailiff:

Thank you. Would you please sit down, Deputy? I am afraid the States have now gone inquorate. Could I please invite Members in the antechamber to return to the Chamber so that we are quorate? Greffier, would you please take the roll? Sorry, yes, using the electronic voting system. The Greffier will open the voting to record who is present. **[Laughter]** That seems to have had quite an effect. I think in fairness to all those Members who have not returned I am not sure that I wish to ask the Greffier to close it but I suppose we have to close it some time. Greffier, close the voting.

Senator P.F. Routier
Senator A. Breckon
Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator F.du H. Le Gresley
Senator I.J. Gorst
Senator P.M. Bailhache
Connétable of St. Peter
Connétable of St. Lawrence
Connétable of St. Mary
Connétable of St. Martin
Connétable of St. Saviour
Connétable of Grouville
Deputy R.C. Duhamel (S)
Deputy R.G. Le Hérisssier (S)
Deputy G.P. Southern (H)
Deputy of St. Ouen
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy T.A. Vallois (S)
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 of St. Peter
Deputy R.J. Rondel (H)
Deputy S.Y. Mézec (H)

The Deputy Bailiff:

We are now quorate. Thank you. Yes, Deputy.

The Deputy of St. Ouen:

I am pleased to see that most of the Ministers have now returned [**Members: Oh!**] because it is ultimately they that will be able to respond, because the Minister has already spoken, to the question that I am going to put. That is that I would like a commitment made that all contributions and all benefits, including survivor's benefits, will be reviewed taking into account not only the contributions that we currently pay but the future contributions that we are going to be expected to pay because the whole issue needs to be looked at. We also need to make sure that when we do undertake that review, that if there are gaps in the benefits that we provide, if there are individuals that have genuine need and cannot access appropriate support, after they have contributed to a scheme then I think changes need to be made. I would like to have a commitment that a complete review, not limited one, a complete review of all of the benefits will be undertaken so we can have a proper debate on how we will provide, not only for the current generation, but for future generations. Thank you.

Deputy J.H. Young:

May I raise a point of order, please, Sir? I wonder if I might have a ruling? Is it in order clearly when we nearly were inquorate; we witnessed a situation where a number of Ministers came in the House to join the appel, fortunately, and they now have left. Is this in order in times, while we are having a debate on important matters affecting their community, clearly, from meetings that take place? Is that in order, Sir?

The Deputy Bailiff:

It is in order for Members to come and go from the Chamber at any time, Deputy, as you well know. Does any other Member wish to speak? Deputy Pinel.

1.1.5 Deputy S. Pinel of St. Clement:

Deputy Southern said: "Tinker with Social Security legislation at your peril." It begs the question why is the Deputy tinkering? Following on from the Minister for Social Security in exercising a head-over-heart attitude to governmental decision making, I just wish to briefly summarise a few bullet points and factual clarifications. The proposer suggests that consultation around the restrictions to survivor's benefits approved by this Assembly in 2012 were insufficient. Survivor's Benefits was examined thoroughly in 9 other countries. The provision in Jersey was found to be very generous. The Social Security Advisory Council, an independent body, undertook an independent review of the benefit and also found it to be too generous. On both occasions that these issues of restricting the benefits have been presented to the Assembly they have received a high level of support. It would be impossible to manage the fund if we did not make changes to reflect the changes in society. More women are entering the workplace. Women are now responsible for their own contribution records. If we conclude of Social Security that a benefit is outdated or too generous, as in the case of survivor's benefit, we have to make changes. In answer to Deputy Martin, Social Security constantly reviews every aspect of support and benefit. A balance has to be achieved between the constant demand for savings and ensuring that the necessary financial support is provided. Survivor's benefit is an in-work benefit. People may claim while working. It is not means tested. Support is always available. People with residency qualifications are eligible for income support if their household income is low. This can be claimed by a homeowner and tenant alike. While it is, of course, not acceptable to discuss a particular case, the proposition states that the person in question cannot continue as a sole trader because the Social Security contributions are unaffordable is a misconception. A widow receiving survivor's allowance has her record fully credited so no contributions are required. With reference to Deputy

Reed, nobody can commit at this stage to a full review of Social Security benefits but I am sure it can be looked at. Thank you.

1.1.6 Connétable S.A. Rennard of St. Saviour:

I am all for Deputy Southern's proposition and I also picked up on a few points that Deputy Martin made. Some of the wording just worries me a little bit because if you have a civil partnership you are entitled to this. If you are a heterosexual couple, you are entitled to this but, as Deputy Martin has pointed out, if you just live together, you are not entitled to the benefit and I really think you should be entitled to the benefit. This was one of the reasons why, when the gay marriage proposal came through, it was not a level playing field where I was concerned because a civil partnership was not allowed for everyone. Not everybody wants to get married and a civil partnership was very important because it gave security and the same is happening here now. So when we discuss this and it is put as a discussion paper, I would like a civil partnership to be allowed for everyone if they want to be together but they do not want to have a marriage. It should be in the discussion. Sorry, I just need to look at my notes again. Heterosexual couples live together and they have all the benefits. I have a couple that had to get married because the gentleman the lady was living with was so much older than her and he retired and she started to panic because if anything was to happen to him, she would lose just about everything that she had and yet they had been together for nearly 20 years. It just seemed to be very, very unfair. So I am going to accept what Deputy Southern is doing but I would also like these things get taken into consideration because I do think it is so important. This is why I would like to see civil partnerships allowed for everybody, whether you wanted to or not. Please, you have got my support and we will just keep our fingers crossed. Thank you.

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

I think, in retrospect - and that is always useful, looking backwards - we probably should look backwards rather than forwards a little bit more, in particular if it means that the quality of our decision-making can be improved. I think the most salient part of the arguments that have been put forward by Deputy Southern is that some consideration was given to a phasing-in of the loss of these monies and we did not do it. That said, I think that that probably should have been done and in the event we have a number of people who are in this kind of grey area where they have been affected by the immediate cut-off brought about by the enactment of the Regulations, I think in some respects there perhaps should have been a more generous consideration arrived at by the Minister for Social Security in accepting that there would be some persons who, notwithstanding we did not have the transition period, would be affected and their positions could be somewhat protected by treating them as exceptions or exemptions. This happened in part with the lady in question but not necessarily to the extent that perhaps would have satisfied Deputy Southern that it was now required to come back and reset the clock as at December 2012 and to reconsider how we bring in perhaps the same thing again but under a phased period. The one thing that I find difficult is that if we were to reset the clock, as is being suggested, there has been no information that has been provided by Social Security or indeed by Deputy Southern to give us a clear indication of the actual cost of that resetting. I think it is an important point because if, indeed, there are only one or two or a small number of persons who might well have been caught and treated differently under a transition process, if the cost of that is fairly ... much less than perhaps that would apply in different cases with more persons, then I think that would assist a number of us to arrive at a more balanced consideration to see whether or not the turning back of the clock is justifiable or reasonable. As I say, that information is not available. We do have a bit of a stab at it under the financial and manpower implications on page 7 of the Deputy's report but I think the specific information obviously is available, to a greater extent, through the department and it would have been helpful, I think, at least to me and to others perhaps, if that information were to be made available, up to a

point, before we arrive at the vote. If we do not get that, then I think, notwithstanding whatever decision we are going to take, if indeed the proposals being put forward by Deputy Southern are not supported by the House, I do feel that there are perhaps further circumstances whereby the individual arrangements could be perhaps reconsidered by the Minister for Social Security a second time and perhaps more favourably in order to offset some of the disadvantages that the phasing of this proposition and regulation has achieved. Thank you.

1.1.8 Deputy R.G. Le Hérisier:

I am increasingly finding myself on these issues as a party-pooper and I think back to the great founder of the Welfare State, Beveridge, who, it is often written now were he to be alive, he saw everything as a temporary matter. The welfare state was there to get people over temporary difficulties in their lives.

[11:00]

It was never there to lead to a dependency situation. Obviously there would be some exceptions but generally speaking, and he never saw it as becoming the great leviathan which, in some respects, it has. I think we are very good but I think a lot of the clue as to what is going wrong was in the speech which led to a totally faulty conclusion from Deputy Young, namely that it is a total mishmash, our system, means-testing versus universal benefits. The definition of family, which we in education, as Deputy Martin knows, got well and truly slammed about when we tried to change the definition of family for grants, for example, that fast moving area, there are all sorts of inconsistencies and so forth, which require a major review. I think the Minister did make a good case for that and I think he would have seen it through. I think it is very bad government to keep changing. I did, I have to tell the Minister, support the Women's Refuge move. Not because it was trying to interfere but because the sum involved, in terms of the overall budget to move the situation along, was relatively small and I thought magnanimity could have been exercised at the time of the negotiations. It struck me it was another classic where the Council had got themselves into a massive box over a very relative small sum of money and pragmatism dictated the situation could have been moved along. I do not think it was the horrendous heart-over-head victory that has worried the Minister. The other point I would make, the Deputy of St. Ouen said: "Let there not be any gaps. Let there not be any gaps and we have really got to work hard at filling them." Now the Deputy often lectures us about our financial improvidence all the time. Now it happens that the Social Security bill is exponentially growing and at some point we are going to have to confront the politics of that, I am afraid, and I would tell the Deputy of St. Ouen to be very careful what you wish for because once you let the genie out of the box you are going to be faced with all sorts of arguments - some quite nasty arguments - that are going to be quite hard to deal with. But I think handled properly and handled in context and handled on the basis, which I thought the Minister was making but needs to be re-stressed, a lot of Social Security work is interconnected. Once you interfere with one set of benefits it has ... and this has come out and when you are dealing with a system that has grown like topsy, as our system has, it is very, very difficult to deal with it logically. Very difficult. That is why it needs people with good minds, with calm minds, with measured minds to sit down and try and untangle the whole thing. We, as a Government, have an awful reputation for revisiting issues and even though some of the case - I do not entirely agree with all of the case, by any means, that Deputy Southern has put forward - is legitimate, I think this yet again will show the public that we are incapable of sticking by a decision. But at least we have got the good sense to say: "It is a mess, the system, overall. It needs a proper look at." In my view, we tried our best to take a measured decision as we were reviewing all the different elements but we realised at the end of the day the whole system has got to be looked at and all its interconnections. But be careful what you wish for. Thank you.

1.1.9 Senator I.J. Gorst:

I am not sure that I need to after the last speaker because I support the comments that he has made. The Minister said, and it was said at the time of the change, that after due consideration, not least of which was looking at what happens elsewhere in the world - 9 other countries - the benefit was found to be outdated and too generous. Now, one of the issues we face is that we have made some good decisions regarding the Social Security fund over the last 15 years and we find ourselves in a position where we have got used to having a good pension being paid. We have got used to having a reserve fund. We have got used to the life of that fund being able to cover a number of years' benefit, up to 5. We have got used to the break-even rate being a number of years off. But we know that with the ageing population we will continue to need to adjust that scheme in order to keep it sustainable and to keep it in the position that we have become used to, and that does mean that when we see that benefits are overly generous and when we see that benefits are out of date, they need to be changed. If we continue paying the same benefits no matter what circumstances are, no matter how they compare elsewhere, then we will not have the scheme that we have got and we will not have the money in the scheme and we will not have the security that we have come to rely on. It is absolutely right and the decision that was made is right and I am afraid I have not heard anything from the mover of the proposition that leads me to suggest that we should rescind that decision. I think it was the right decision. I just want to pick up a comment made by my own Deputy, who the previous speaker picked up on as well, that where there is a gap, we should fill it. Well, my view of government is not that. Government is not the answer to all problems and we should not make the philosophy that if there is a problem the Government can solve it. That is big government. That is government believing it can solve every problem. That is not true. We have a scheme that I think in Social Security we can be really proud of but we do need to carefully adjust it and when a benefit, as we have heard from others, is out of date and it is overly generous then it is right that it is amended. That is what has happened here and we have got to be very careful not to fall in the trap of thinking we can spend from the fund to do this and we can spend to do that and we will just carry on in the same way. That is not the case. It was the right decision when we made it. It is still the right decision to date so I ask that Members reject this rescindment of the decision. Thank you.

The Deputy Bailiff:

I call on Deputy of Trinity.

1.1.10 Deputy A.E. Pryke of Trinity:

I think I am the only one here in this Assembly who can ... the difficult task of being able to say that she has received the survivor's pension and received it up to a few months ago when it was changed to the old age pension, but that is another story. So I know what I am talking about and I can talk from experience. Deputy Southern talked about people over 55, well, 50s or whatever who are receiving it. Well, my husband died at 47 and I did not expect to receive the survivor's pension. Was it useful? Of course it was useful at the time, but I did not expect it and I think, looking back, and I have thought long and hard about this when it first came to the States last year, the most difficult time that I would think any ... and my job was with Hospice and so I have got experience of dealing with people who are bereaved as well as my own bereavement ... it is the first difficult year that you have to contend with and if you know that you are financially safe, then that is one big worry. I was lucky, fortunate that I was able to go back to that job. But after that, once you are back into a different type of life and you are still receiving that survivor's benefit, and things settle down, came to: "Well that is generous." I am back to work. I want to work, in my own right. I was one of those who took, who did not pay in my own right. Social Security at that time said: "You do not need to do it. You can go on your husband's." On reflection, it was the most stupid thing to do but there you are. Hindsight is a wonderful thing. And I did not need it. I was working and I felt very proud that I was now back to work earning a salary in my own right and coping

without support from Social Security, from the States. So that is why I supported that decision last year and also, I think Social Security have been right, thinking about people who are in that state, by still giving that pension during that first year and if they have got dependent children. Society has changed. I am sure when this was first put in, most women did not work so if their husbands or partners or wives did die, unfortunately die early, that pension, that benefit was essential. But we have changed. Women work in their own right and get a salary in their own right. Really, we made that right decision last year. We need to stick by it because, as I think Deputy Le Hérissier said, it is not good government to go back and change decisions. We know the problems ahead regarding the financial situation and this Assembly and the next Assembly will have to make very difficult decisions. But the decision that Social Security and this Assembly made was right at the time. It put in place the most difficult time of a bereavement to allow that Survivor's Pension for that first year and then not after, unless you have dependent children *et cetera*. So I urge Members to vote against this proposition.

The Deputy Bailiff:

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

1.1.11 Deputy G.P. Southern:

I start at the beginning with Senator Le Gresley and I have no wish to personalise this difference of opinion between myself and him, as indeed, he did not personalise his contribution, except at the end, it seemed to me, when he rather drifted. But his point that he made is that in this case, he says, I appear to be opposing any change. He says we must change. I perfectly accept that as far as Social Security is concerned there will be and there must be changes to the Social Security system and the benefits that accrue from them. However, as with any change particularly where people are dependent on the benefit produced from the system, and particularly where it is compulsorily charged for, for a particular benefit at the end of it, we must consult. That consultation did not happen. We must research, and I return to the 2 statements. The Minister, in P.105, was requested to carry out a comprehensive review and he said it was not possible to undertake a complete review of survivor's benefit within the timetable. That research did not happen. Members will know my tradition, my long history in Scrutiny. Do the research. By all means make sure the change is the right change. Consult on it. Warn people it is going to happen. That is what you need to do. It did not happen and that is what I am saying was wrong. In discussing the exceptions that **[Aside]** Deputy Young mentioned about the practicalities of the over-50s. I point out that the exemplar, the person who came to me who has given the evidence from pages 8, long C.V., applied to 2 agencies. The first agency said: "Mmm. Very interesting C.V. Lots of skills but we cannot do anything for you." When she asked why: "You are over 50. We will not touch you." Then went to another agency and she applied. They did not say: "We will not touch you." "You are employable" but it has been 3 months. Not a tweet. Nothing. That is the reality for 50 year-olds trying to maintain themselves in these particular circumstances. I think the call for the Green Paper, which forms part of an overriding review in so many aspects of our Social Security system, must take place.

[11:15]

If this is a benefit which is too generous, which is suggested by examining other countries' practises, then fine. Change it so that it becomes less generous. There may be any number of ways of doing that but all I am saying is, in terms of change, I am not saying no to any change I am not saying no to all change I am saying no to this change, again, I say, because I believe on our part we have broken that social contract which says we make you pay 6 per cent of your earnings throughout your life to provide you with benefits at the end of it. We are breaking that. One of those understood to be survivor's benefit. Gone. A better way to do it would take longer to make the change but would be to close that benefit to new entrants. That is what other pension schemes

do when they negotiate properly. At the end of his speech, Senator Le Gresley talked about working with your head, making decisions from your head and not your heart, and he referred to the shelter, sorry, the Refuge argument that we had yesterday over a much smaller amount of money. But he said after lengthy negotiations that decision took place and now we have got to change it. There were no negotiations taken on this, no consultation, and precious little research. Deputy Young also said in amending it, what came to us last time we did not get it right again. What we did was not sufficient, and it is interesting to note that in the first approach that Senator Le Gresley made to this issue, he originally had the age of 45 as the kick-over age, except that when he did the sums he found that that did not save enough money. Again, I take the opportunity to talk about the motivation for this is saving money; that is all. Deputy Martin introduced the concept of cohabitation and said: "Well, this does not include them" so she said she is minded not to vote with my proposition but not to support the other side either. The cohabitation issue is an issue which needs addressing and, in a longer term review, must be addressed. It is not my function here to address that particular issue. I am certainly happy - if I am still around - to address it at a future date. The Deputy of St. Ouen wanted the whole system reviewed and I do believe it is almost inevitable that it will, and as part of that, I think that review of what we have done with survivor's pension should occur. Deputy Pinel said no tinkering but are you not tinkering? I am not tinkering. I am not proposing a change I am proposing a reversion to what we had before, which was working. Because, I say, it lets down many women ... some women; many women, I suspect, in their 50s who will increasingly find that this benefit has been pulled, and again, where is the research? We hear that 77 per cent of women are in work and are economically active. What does that leave you? 23 per cent, almost one in 4 women not. What are their circumstances? Have they been in traditional households? Are they traditional wives bringing up children, *et cetera*? Do they work, do they not work? For what reason? We do not know. Again, the research has not been done. Deputy Pinel also reminded us that this change was reviewed by the Social Security Advisory Council, who are independent. Well they are independent but they are also amateurs. They are not professionals, they are laymen, and the advice given from them cannot, I believe, be relied on. She then went on to say: "And the homeowner and tenant are treated equally because income support will pick them up." Income support does not treat tenants and homeowners equally. If you are a tenant it includes, in your income support, a rent element so they can support you from the bottom up. If you are a homeowner there is no provision for if you have a mortgage that is still left to pay off, which is one of the bugbears of some of these women, then there is no contribution from income support to your mortgage payments. You have got to scrabble around and see how to survive, in some cases taking lodgers, all sorts of things, in order to make sure that your income is maintained. The Constable of St. Saviour said she will support this and I thank her for it, and for the first time in my life, in this Chamber certainly, I have been called "Sir". Thank you. It will not happen again, I do not think. Deputy Duhamel, I do not know where particularly he was coming down on one side of the other but he said it was good to look back and review the decision that had been made. I think we should. Deputy Le Hérissier, however, talked about how we make changes but criticised me for making this particular change, and again, I would like to refer to the motivation behind this particular change, and the difference because he was talking about the difference between contributory and non-contributory benefits; taxpayers' benefits. Now, one of the reasons for this particular change was to save from the contributory benefits scheme. That allowed a subsequent change which the Minister had his eye on, which was to take the home carers, the invalidity care allowance, as was, the home carer's allowance, to transfer that from a tax funded benefit to a contributory benefit. So to take it out as tax, saving his target in tax funding benefits and move it into contributory, having made the space by changing the survivor's pension to fit in with the contributory benefits. Now, I discovered recently that what that means is if somebody is unemployed, contribution is not being topped-up, it is very difficult to get into the home carer's allowance scheme. You have to have at least one month's contributions there. So,

living on basic income support, you have to find £100-and-something to get a month's contribution in place so you can take up caring for your elderly relatives, or whatever it is, at some date 6 months on. So, again, a tinkering with Social Security legislation has led to a very anomalous and difficult situation elsewhere. I go back to ex-Senator Le Sueur, who said: "Amending Social Security legislation must be done with extreme care because it is very complex." Senator Gorst made the bid again for small government; he always does. But it is my opinion that the government is, and I quote: "Insurer of last resort." When all else fails government has to be there to pick you up. In this particular case I think it has abandoned that particular pick-up. He said: "We must carefully adjust things in order to not to damage." I think that in this case we did not take enough care. We did not do the research which was required, requested by this House. We did not do the consultation and I think, as I have said, that we have made a mistake. So I maintain the proposition. I do not see that there is any way it can be split, the content is part (a), it is either for or against, if I could just seek the Chair's ...

The Deputy Bailiff:

It is one proposition.

Deputy G.P. Southern:

It is one proposition. Okay, so I maintain the proposition and call for the appel, Sir.

The Deputy Bailiff:

The appel is called for on P.122. I invite Members to return to their seats and I will ask the Greffier to open the voting.

POUR: 9	CONTRE: 37	ABSTAIN: 1
Senator A. Breckon	Senator P.F. Routier	Deputy R.C. Duhamel (S)
Connétable of St. Lawrence	Senator P.F.C. Ozouf	
Connétable of St. Ouen	Senator S.C. Ferguson	
Connétable of St. Saviour	Senator A.J.H. Maclean	
Deputy G.P. Southern (H)	Senator B.I. Le Marquand	
Deputy M. Tadier (B)	Senator F.du H. Le Gresley	
Deputy J.H. Young (B)	Senator I.J. Gorst	
Deputy N.B. Le Cornu (H)	Senator L.J. Farnham	
Deputy S.Y. Mézec (H)	Senator P.M. Bailhache	
	Connétable of St. Helier	
	Connétable of Trinity	
	Connétable of St. Clement	
	Connétable of St. Peter	
	Connétable of St. Mary	
	Connétable of St. Martin	
	Connétable of Grouville	
	Deputy R.G. Le Hérisier (S)	
	Deputy J.A. Martin (H)	
	Deputy of St. Ouen	
	Deputy of Grouville	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	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 S.J. Pinel (C)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy R.J. Rondel (H)		

Deputy Duhamel abstained.

The Deputy Bailiff:

I give notice to Members, as Members will have seen from circulation, of the proposition P.148 that has been lodged by Deputy Southern, Vote of No Confidence in the Minister for Treasury and Resources. We now come to P.131, the States of Jersey ... sorry, Chief Minister.

Senator I.J. Gorst:

Sorry, Members may feel more comfortable doing P.132 before they do P.131; P.131 is an Appointed Day Act. It is not connected with the Standing Orders but I am in Members' hands. I take it either way. Shall we carry on with the Appointed Day Act?

The Deputy Bailiff:

Nobody seems to have any strong views one way or another, Chief Minister.

Senator I.J. Gorst:

Okay, well, we will carry on with 131, then first.

2. Draft States of Jersey (Amendment No. 7) Law 2014 (Appointed Day) Act 201-(P.131/2014)

The Deputy Bailiff:

Very well then, I ask the Greffier to read the draft Act.

The Deputy Greffier of the States:

Draft States of Jersey (Amendment No. 7) Law 2014 (Appointed Day) Act 201-. The States, in pursuance of Article 10 of the States of Jersey (Amendment No. 7) Law 2014, have made the following Act.

2.1 Senator I.J. Gorst (The Chief Minister):

This is, as the Deputy Greffier has just said, an Appointed Day Act bringing into force the amendments to the States of Jersey Law that we discussed earlier this year and it comes into force on 15th October. Thank you.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak? All Members in favour ... Deputy Young.

2.1.1 Deputy J.H. Young:

I wish to just rise to record formally I am going to vote against this because I think we have ended up with a mess. I think the situation we have ended up with - collective responsibility - is totally unsatisfactory and the provisions for the hiring and firing are inconsistent, and I think this is a dog's breakfast and I am going to record my vote against it.

2.1.2 Deputy M. Tadier of St. Brelade:

I think it is completely ... sorry, I do wish to speak and I jumped the gun. I think that it has to be reiterated because what we have got now is we have seen that the Ministers, well, most of them, were willing to abide by collective responsibility, and then pretty much the first opportunity that they had, a big international treaty was to be signed, and what we have is that one Minister who is directly responsible for that portfolio does not agree with his own department let alone the other Ministers, yet remains in post. Honourably, of course, we are told that he tendered his resignation but it was not accepted, goodness knows why if the Chief Minister is supposed to be supporting collective responsibility. We need an explanation from the Chief Minister today as to what happened between the theory and the practicalities as we are about to pass this Appointed Day Act. It simply does not make sense anyway, taking all that aside, to have a system whereby you expect collective responsibility, albeit with some carve-outs, depending who it is of course. If you like the Minister, they can do what they want. If you do not like the Minister then they have to have collective responsibility. That is how it will work. In Jersey that is how it is proven to be working already, and you simply cannot have a system whereby the Assembly appoints Ministers who may not be the choice of the Chief Minister and then we have collective responsibility on top of that. It simply does not work.

[11:30]

Jersey seems to want to have the best of both worlds. They do not want to admit that they want a party system, yet we all know that there is a party system running the Island anyway and it becomes more and more obvious as we get into the elections. Unfortunately the public cannot see that. I would put it to the Chief Minister, we should not be passing this, the whole thing needs to be kicked out. We need a proper system which is consistent. Either have proper Ministerial government with the accountability and party that comes with it. But until we have that we must remain with a system whereby the Assembly remains sovereign and at the moment we do not even have that either. We are in a no-man's land and this is not what anyone envisaged.

The Deputy Bailiff:

Deputy, although you have sat down. Before you sit down, can I say that this debate is not about whether there should be collective responsibility, it is an Appointed Day Act and the question is whether it should come into force in accordance with the Act, which is on 15th October 2014, and the debate, such as it is today, is around the date and not around anything else. Now, is there anything you wish to say about that?

Deputy M. Tadier:

Thank you for that clarification, and with that whole preface I think it goes without saying that no, we should not be bringing this law into effect on that date.

2.1.3 Deputy S.Y. Mézec:

I completely agree with what Deputy Tadier just said on the date of this. It should not come into force until at least there have been any considerations on all the other aspects of government in a full and comprehensive Royal Commission held outside of this Island where no political interference by people who have self-interest can have any say in it whatsoever, and since this is being broadcast on the radio to the public it is worth making the point that with collective responsibility, do not believe anything you read on an independent candidate's manifesto because if

they become a Minister it is not worth the paper it is written on. They have to do what the group says, not what they promised the electorate, and the electorate need to know that.

The Deputy Bailiff:

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

2.1.4 Senator I.J. Gorst:

The 15th October seems perfectly reasonable to me because we will then be putting into force the decisions that we made earlier this year in time for the new government to be formed. The other arguments we have already had. I appreciate that there was divided opinion but the States did vote after many, many months, even years, of consultation and reports, and this is where we have arrived at. It may not be exactly where many Members might quite like us to have arrived at. There were compromises along the way. There was a need to build consensus, but as it were that was yesterday's decision so I think it is right that it is in force for the new government. Thank you.

The Deputy Bailiff:

All Members in favour of adopting the Act? The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the Appointed Day Act in relation to the States of Jersey (Amendment No. 7) Law and I ask the Greffier to open the voting.

POUR: 29		CONTRE: 12	ABSTAIN: 1
Senator P.F. Routier		Senator A. Breckon	Deputy J.A.N. Le Fondré (L)
Senator P.F.C. Ozouf		Deputy R.C. Duhamel (S)	
Senator S.C. Ferguson		Deputy R.G. Le Hérisssier (S)	
Senator A.J.H. Maclean		Deputy J.A. Martin (H)	
Senator B.I. Le Marquand		Deputy G.P. Southern (H)	
Senator F.du H. Le Gresley		Deputy of Grouville	
Senator I.J. Gorst		Deputy M. Tadier (B)	
Senator L.J. Farnham		Deputy J.M. Maçon (S)	
Senator P.M. Bailhache		Deputy G.C.L. Baudains (C)	
Connétable of St. Helier		Deputy J.H. Young (B)	
Connétable of Trinity		Deputy N.B. Le Cornu (H)	
Connétable of St. Clement		Deputy S.Y. Mézec (H)	
Connétable of St. Lawrence			
Connétable of St. Mary			
Connétable of St. Ouen			
Connétable of St. Martin			
Connétable of Grouville			
Deputy J.A. Hilton (H)			
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 of St. John			
Deputy S.J. Pinel (C)			
Deputy of St. Mary			
Deputy of St. Martin			
Deputy of St. Peter			
Deputy R.J. Rondel (H)			

3. Draft Amendment (No. 24) of the Standing Orders of the States of Jersey (P.132/2014)

The Deputy Bailiff:

We now come to P.132/2014 the Draft Amendment (No. 24) of the Standing Orders of the States of Jersey and I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Amendment (No. 24) of the Standing Orders of the States of Jersey. The States, in pursuance of Article 48 of the States of Jersey Law 2005, have made the following amendments to the Standing Orders of the States of Jersey.

3.1 Senator I.J. Gorst (The Chief Minister):

These amendments arise from some of the outstanding recommendations of the final report of the Machinery of Government review. I am proposing these that deal with the Executive and the President of the Chairmen’s Committee will deal with the next changes which deal with those regarding Scrutiny. Members will be aware that these were lodged at the same time as the regulatory regulation changes with regard to the Machinery of Government. If I quickly run through them all. Amendment to paragraph 1: the first recommendation was that the period between election day and the election of the Chief Minister Designate should be shortened by one week, and this amendment would mean that the States Assembly would meet to appoint a Chief Minister Designate 21 days after an ordinary election. This period would therefore be reduced by one week from the current 28 days. That is what that does. Amendment to paragraphs 2 and 3: these amendments implement recommendation 3 of the final report, that was that Standing Order 115 should be amended to require that written statements setting out a vision for a strategic policy and in a manner in which the candidate proposed to discharge their duties as Chief Minister should be published not less than 5 working days before the meeting at which the Chief Minister Designate is to be elected. So, paragraph 3 first would amend Standing Order 115 and would mean that candidates for the post of Chief Minister would be required to submit their nomination 5 clear working days before the meeting. This period would therefore be lengthened from the current 2 working days. It also deals with should the post become vacant. Paragraph 2 would provide for such a situation and would mean that the States would be required to select a new Chief Minister within 7 clear working days. Currently the States would be required to select a new Chief Minister within 4 clear working days. Amendment to paragraph 4: this amendment would implement recommendation 4 of the final report. Recommendation 4 was that Standing Order 116(5) should be amended to allow up to one hour of questioning for each candidate for the office of Chief Minister. This amendment would mean that candidates for the post of Chief Minister would be questioned for up to one hour by the States Assembly during the selection process. This period would therefore be increased from the current questioning period of up to 40 minutes, and amendment 3: this would implement recommendation 5 of the final report. That recommendation was that the size of the Executive should continue to be constrained in accordance with the Troy Rule. This amendment therefore sets the limit of the aggregate of the Chief Minister, Ministers and Assistant Ministers to no more than 21 individuals in accordance with the Troy Rule. Amendment 4 provides for the citation and commencement of the amendment. Thank you.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak? All Members in favour of adopting the proposition, kindly show? The appel is called for. I invite Members to return to their seats. The vote is on the Amendment (No. 24) of the Standing Orders of the States of Jersey and I ask the Greffier to open the voting.

POUR: 37		CONTRE: 3		ABSTAIN: 1
Senator P.F. Routier		Connétable of St. John		Deputy S.Y. Mézec (H)
Senator P.F.C. Ozouf		Deputy J.A. Martin (H)		

Senator S.C. Ferguson		Deputy J.M. Maçon (S)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
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 of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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 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 of St. Peter				
Deputy R.J. Rondel (H)				

4. Draft Amendment (No. 25) of the Standing Orders of the States of Jersey (P.133/2014)

The Deputy Bailiff:

We now come to P.133/2014 the Draft Amendment (No. 25) of the Standing Orders lodged by the Chairmen's Committee and I ask the Greffier to read to the citation.

The Deputy Greffier of the States:

Draft Amendment (No. 25) of the Standing Orders of the States of Jersey. The States, in pursuance of Article 48 of the States of Jersey Law 2005, have made the following amendments to the Standing Orders of the States of Jersey.

4.1 Deputy T.A. Vallois of St. Saviour (Chairman, Chairmen's Committee):

Following on from the last proposition, we have the amendments to the Scrutiny function under the Standing Orders and I will briefly go through them. Following the adoption of P.33 on 20th May and the Appointed Day Act today, the Chairmen's Committee reviewed the structure and consulted widely across Scrutiny on a number of issues. Scrutiny members are of firm belief that fixed

panels remain and this has been taken into consideration with these amendments. Recognising the States of Jersey Law is not prescriptive in terms of the Scrutiny function, advice has been that such prescription is not necessarily needed within the Standing Orders. We are therefore looking to keep fixed panels with assigned topics while moving the topic of housing from the current panel of Health, Social Security and Housing to the Environment and Technical Services Panel, understanding the substantial amount of work required under these topics already. Another concern of the Chairmen's Committee was that panels can become overloaded. This could mean an important subject may not be reviewed. Upon considering how to manage this and how to approach cross-cutting issues, we considered introducing, although not unanimously, that the Chairmen's Committee are given the ability to establish review panels comprising of non-executive members without the necessity of a panel member on that specific panel. I believe I have covered all those areas.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak? All Members in favour of adopting ... sorry? I did not see your light. Deputy of St. Martin.

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

I will not speak for long. As vice-president I just wanted to make a few comments. I am going to vote in favour of this but as Members may have heard from the President I was one of those who was not unanimous about the non-executives being allowed to chair reviews. I have a strong view on that and I just want to place it on record that I am not in favour of that. But on balance, I fully support the other changes that are being proposed.

4.1.2 Deputy J.H. Young:

I think there are a couple of brief things need to be said. I think when you look at this amendment the impression might be given that we are deleting the titles of these panels and therefore not defining what their functions are. In actual fact I think I certainly jumped to misreading that, that on the amendment itself we were deleting those things meant that they ended up being meaningless. When one checks the original fine drafting of the Standing Order one can see that is not the case. So we end up with a position, clearly, where we have a number of fixed panels or panels with broad areas of responsibilities assigned. There is an adjustment on the Environment, Housing and Technical Services one, although I really have no idea how the housing one is going to work now we have outsourced it to Andium Homes. We will have to see. One hopes, of course, that that comes still under the Scrutiny Committee. But I think certainly the other important thing to say is that the powers here to have *ad hoc* panels, task-based panels, under the direction of the Chairmen's Committee, I think is an excellent one and should allow much greater flexibility for Members to come on board who previously have been, for whatever reason, either not been prepared or not willing or not able – prevented - from coming on to Scrutiny. So I think it is a great strengthening and the code of practice finally will, hopefully, get to the point where we have a common ground agreed between the Ministers and the chairman on the rules of engagement so we do not have these constant disputes about whether Scrutiny's report was listened to and whether we got their replies on time. So that code of practice, if I have anything to do with it, I mean, I want to make absolutely sure that we have a strong code of practice.

4.1.3 Deputy R.G. Le Hérisier:

Just an explanation from the chairman of the panel. The discussion has been rumbling on for a long time as to whether a particular, or both ... sorry, I did not take my medication. **[Laughter]** It has been moving on for a long time about the role of Assistant Ministers and I see obviously it fell down on one side of the argument in the end. I wonder if the chairman could explain why the decision was taken as it was?

[11:45]

The Deputy Bailiff:

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

4.1.4 Deputy T.A. Vallois:

I would just like to thank my fellow chairmen for making the points that they have with regards to this and thank them for their support over the last 3 year and with regards to Deputy Le Hérissier's point about Assistant Ministers it probably was not a good question to ask me in particular because I have specific views on the role of Assistant Ministers, and that is nothing against current people who carry out that role but it is the way it is structured and put together. Going forward, if there is a consideration for Assistant Ministers to be serving on a Scrutiny Panel or Review Panel then there has to be an absolute understanding between the Executive as to how the Assistant Minister carries out that role. At the moment there are inconsistencies with Assistant Ministers' roles and I think it needs to be made absolutely clear what their role is, whether they have responsibility or no responsibility and how they are going to carry out their function for their Minister. Only then could we have a clear understanding of what their role would be on a Review Panel, because otherwise we come up against issues with conflicts of interest and arguments that it was not an independent review, and then the review would be pushed aside and forgotten about. There is a large risk in taking on Assistant Ministers at this point in time until there is a decision, whether it is by this States Assembly or by the Executive that comes forward in the next States Assembly that sets in stone exactly what the role of Assistant Minister is in the future, and then we can go on to a discussion as to whether they should be sitting and doing reviews with Scrutiny. I ask for the appel, Sir.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on whether or not to adopt the Draft Amendment (No. 25) of the Standing Orders of the States of Jersey and I ask the Greffier to open the voting.

POUR: 44		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				

Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

5. Jersey Innovation Fund: Board remuneration (P.134/2014)

The Deputy Bailiff:

We now come to P.134, the Jersey Innovation Fund: Board remuneration and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to refer to the Act dated 1st May 2013 in which they approved the establishment of the Jersey Innovation Fund and agreed the revised operational terms of reference, April 2013, and agreed to vary the revised operational terms of reference so that Advisory Board members may be remunerated for their work.

The Deputy Bailiff:

I should have announced that it was lodged by the Minister of Economic Development.

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

When the States adopted proposition P.55, the Economic Growth and Diversification Strategy, in July 2012 one of the key components was to create a Jersey Innovation Fund, a fund aimed at providing access to finance for innovative businesses developing new products and services and typically those that would have difficulty securing funding from traditional sources. A product designed to help boost the economy by stimulating innovation. As a reminder, in May 2013 proposition P.124, the Jersey Innovation Fund, was overwhelmingly supported by Members. A clause within that original proposition sought to recruit Jersey Innovation Fund Advisory Board members on a non-remunerated basis, excepting the chairman, working a minimal number of days *per annum*. In October 2013, following initial difficulty recruiting any non-executive director board members at all, I lodged a proposition P.121 seeking to introduce a small remuneration, essentially expenses for non-executive directors of the Advisory Board in order to attract more

applicants. However, following the lodging of that particular proposition, a further advertisement still offering the same terms and conditions of appointment resulted in a much improved response and as a consequence the recruitment of what I consider to be a strong board of non-executive directors was indeed achieved. I therefore took the decision at the time to withdraw P.121 indicating to States Members in writing at that time that while I wished to discuss further with the Economic Affairs Scrutiny Panel I would keep the matter under review. In fact, as a reminder the letter I sent said: "We will need to further consider the issue of remuneration in light of the workload of board members in order to retain membership and enhance future recruitment." For the avoidance of doubt the remuneration envisaged was in the order of £4,000 *per annum* as an honorarium to cover out-of-pocket expenses for each of the non-executive directors. It was originally thought that the Innovation Fund Advisory Board members would be required to commit up to 8 days per year of their time on an annual basis across a combination of board attendance and carrying out due diligence with applicant companies themselves. However, it has become clear based upon experience of the Innovation Fund Advisory Board activities that in short the time commitment of board members is far higher than originally anticipated; in fact, almost 3 times more than we had thought. In light of this I have agreed to reconsider the matter of remuneration following discussions with the chairman. Given the importance of the Innovation Fund to the delivery of the aims and objectives of the Economic Growth and Diversification Strategy and the need to have highly experienced non-executive directors, I believe it is now important that Members take a positive step in order to signal to the chairman and particularly to the Innovation Fund Advisory Board members the value of their individual contributions. In order to attract and importantly to retain the calibre of non-executive directors that the Jersey Innovation Fund Advisory Board requires, and in order to provide the Minister for Economic Development with sound advice on future Innovation Fund investments I believe it is important that Members support this proposition to allow the non-executive directors an honorarium to cover their out of pocket expenses and that is the essence of this proposition. I maintain the proposition.

The Deputy Bailiff:

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

5.1.1 The Deputy of St. Martin:

Very briefly I would just like to concur with the Minister for Economic Development and tell the Assembly that not only has the Scrutiny Panel met with the Minister and his team but we also met at length with the chairman of the board. There is no doubt in the panel's mind that the members of this board need payment. They are doing hugely important work and work this Assembly should be grateful for. As the Minister had alluded to, they have put in a huge amount of their time and it certainly was not as described in the job description when they took on the role. I would say to the Assembly that the Scrutiny Panel has pointed out to the Minister that when it comes to the payment of board members a large number of boards Economic Development now supports there is enormous inconsistency and we have told the Minister we are sure this is an issue that needs addressing and we have been given assurances by him that his department will in the future seek to make these important issues where people should be treated more fairly and more similarly and more consistently in the future. There is a huge discrepancy with the money paid out by E.D. (Economic Development) to board members for the number of meetings they hold during the year and the amount of money they receive for those meetings and my panel is really keen that Economic Development addresses this issue and come out with a fairer scheme that addresses across a whole range of boards.

5.1.2 The Deputy of St. Ouen:

This is just a very quick question. We are told the overall cost will be approximately £50,000. Maybe the Minister will tell us how he plans to share that among the non-executive members.

5.1.3 Senator L.J. Farnham:

I align myself with the comments of the Deputy of St. Martin and I will be supporting this. I just wanted to ask the Minister if he could remind the Assembly of the level of the fund and how much, if any, has been spent since the formation of the fund because, while I supported the Economic Growth and Diversity Fund I believe things have been a bit slow in getting it moving. I am pleased to see there is a flurry of activity and advertisements now in the media for both the Innovation Fund and the Tourism Development Fund, which is good because we need to get things moving. Could he just remind the Assembly, therefore, what the Innovation Fund has done to date and can he assure us we are going to start spending and investing some of that fund to get the economy moving?

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

I wonder in his summing up if the Minister would explain, as I seem to have noticed in the proposition, how the suggested amount of honorarium was arrived at. From what I can see in the information in front of me it looks like normally 4 or 5 members for approximately 22 days a year, which works out at nearly £500 a day. I just wondered how that was arrived at.

5.1.5 Senator P.F.C. Ozouf:

As the bringer of the original proposition lodged in November 2012 after the original idea of the Innovation Fund, the work was done by E.D. but then the Treasury has to bring it because it is a special fund. I cannot exactly remember when the debate happened but I think we lodged it in November 2012 and it was taken some time in the beginning of 2013 as I recall. There is no doubt that the Innovation Fund and the decisions the Innovation Fund members make are absolutely vital to securing economic growth. There is a lot of discussion about economic growth that has been affected by the international position, as we have heard, and is continuing to be certainly anaemic in terms of the local situation and how that has panned-out. The work of the Innovation Fund and what is happening with the Innovation Fund was important back when the original Economic Growth and Diversification Strategy was debated.

[12:00]

It is now, and I am sure the Minister would agree that it is even more important that the Innovation Fund and the decisions they are making are made quickly, professionally and proper time is given by the board in order to discharge those obligations. Initial funding was for £5 million. I personally suggested it should be lifted to more than that but the Innovation Fund obviously has not been to even the levels the Minister himself would have wanted. I think we all share some frustration at the time it has taken to get the thing underway. This fund is going further, as the Chancellor of the Exchequer in the U.K. extended the British Business Bank with a further £100 million for FinTech activities. We are going to have to think about innovative ways to fund innovative businesses in order to get the economic growth the economy needs. Financial services is working well but it is the rest of the economy that needs assistance and the Minister is absolutely right to put this remuneration structure in place in order to make sure they can do the job that they need. One of the difficulties is both members of such boards and indeed the culture of blame whereby some projects will work means that people are incredibly cautious at their spending, and while a code of directions must be absolutely applied we must accept that the Innovation Fund Board will make mistakes. They have to do their job properly and they have to have the time to evaluate the applications and give the Minister the proper advice. But there will be failures and we accept that. There is lots of good experience about the way this has happened. The level of remuneration set out here is appropriate and modest. The Minister and I have had some

conversations about the fact that it is important going forward. There is a lot of concern generally about the remuneration of these bodies that are set up, both in terms of the utilities and other bodies and the bodies that E.D. has frankly rightly set up. The Minister has been very clear about his views about, for example, the new arrangements for tourism. I know, and the Minister and I had a conversation earlier, that we need to certainly set some overall guidelines but Central Government will set some guidelines on the levels of remuneration that are done. I absolutely support this. It was important back when it was conceived in 2011 and 2012. It is even more important now as we see a much more competitive world. Economies have had their public finances in complete disarray. That means politicians in other places are stepping-up their activities to do more in order to get new innovative businesses into their jurisdictions and we need to recognise that increasingly competitive environment and do even more. Perhaps we need the Jersey Investment Bank to mirror the U.K. situation. The Innovation Fund is good and it is absolutely the right decision that we should remunerate them. It is on a modest level and this has my full support.

5.1.6 Deputy J.A. Martin:

I am sorry to ruffle the feathers of the 2 Ministers but it does not have my full support. It is the Innovation Fund and I have just been told by the Minister proposing it that it is doing so well that we need to pay the people who are overseeing it and the Minister for Treasury and Resources has not taken enough money out. I will give you some innovation. It should be paid on productivity of what the companies that are innovating and giving the funds to, and it has only been running 2 years and there is no productivity happening. I do not think it has been very innovative except for coming up with: “We want to be paid for the job we are supposedly doing.” I call that very good innovation but I am not supporting it. I am really sorry. You read into this a small amount, 6 people, the amount of hours, and I think they are paying out at the moment more than we are funding into these new initiative businesses. I need that answered but this is what I am reading, so we are paying for more promises in the future. No, these people, I agree it is a very important job. We need the right people. We need them to be hot on what they are looking at. We had this debate at the Chamber the other day. What might not look good today could be Google tomorrow but we would not have let that into Jersey and we would not have been innovative. I do not think we are convinced today. I am certainly not convinced to give these people money. It needs to be productivity and everything else we talked about and I urge people, unless we hear different from the Minister that this has been, could be, may be and will be. But, no, you do not come back after 2 years and tell me you cannot spend the money from the Minister for Treasury and Resources but because they are putting in so much work they need to be remunerated for innovation.

Senator L.J. Farnham:

I am assuming the Deputy is now supporting differential pay for States Members [Laughter].

Deputy J.A. Martin:

That is very innovative. I do not know who would be on the most, me or the Senator, but then that is another day for another debate. [Approval] He started it.

Senator L.J. Farnham:

I accept that challenge, Sir. I accept that one.

The Deputy Bailiff:

Neither the Senator’s intervention nor your response is relevant.

Deputy J.A. Martin:

I had nearly finished. I had finished, Sir. I just need to be convinced. I certainly will not be convinced today. I am not putting this money in as remuneration on an initiative fund.

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

It is always difficult to follow Deputy Martin. She puts her point rather bluntly. I think I was veering in the same direction as her but the questions I have written down to address to the Minister are how is the success of their decisions measured, how do we know how those successes have impacted upon our economy and how many - I think the question has already been asked - innovations have been funded? I think it is interesting that the Minister for Treasury and Resources stood up. Maybe he felt it was not going to go smoothly and clearly Deputy Martin is not offering her support for this. I felt the Minister for Treasury and Resources had to stand up to sell this. Maybe he did not think the Minister for Economic Development had done a good enough job, and he spoke about potential failures. It just concerns me a little bit perhaps we are rewarding people for failing. The way I will vote on this is very much dependant on the response of the Minister to these questions. They are pertinent, they are valid and they need to be answered.

5.1.8 Deputy J.H. Young:

I have always been a little bit cautious about this but I think it is right that if we are having a scheme from public funds to invest in commercial projects we have the quality of people doing the job. I think it would be foolish not to do that. I also think when one looks here, what I read is we have 4 people and they are required to put in 22 days a year, which is roughly one full month's work. Therefore I think it is unlikely, because we are dealing with commercial world people, that we are going to get altruistic people here to come along and do that work for nothing. I hope what we have is an arrangement where we are not paying inflated rates, because if you do the calculation that Deputy Baudains has done you do end up with some pretty high rates, about £600 or £700 a day, according to how you rate the chairman and the other members and how you split it, which is pretty high. I am very pleased to hear the Minister for Treasury and Resources say there is a commitment from Ministers to produce some guidelines on this, because I am troubled sitting here with all these *ad hoc* arrangements for all these different bodies. I think there need to be something there in place because what in reality happens is that when we are setting up groups, important groups, for social purposes not for economic, I am absolutely sure we probably often get those people for nothing; outstanding people of an altruistic nature who give up their time. Let us be thankful that we have those people on the Island. But obviously when we are dealing with economic issues we are competing with commercial practices so we therefore have to pay this. I hope the Minister will at least tell us a little bit more. I certainly want to see not a fixed honorarium with a minimum commitment of a number of days and I do not want to see an escalator on a high daily rate that could lead us to these costs running out of control. We want excellent people but we want them to have a commitment to the Island, and I am sure they have, as well as a need to be compensated for their loss of earnings and not being able to do something else at the same time.

5.1.9 Senator S.C. Ferguson:

As the Minister indicated we have a real mess of paid and non-paid posts throughout the States with the various quangos, and what is worse is that we get a totally different type of person applying for the honorary posts to the non-honorary posts. You have only to talk to the Honorary Police. Most of our Honorary Police, if you started paying them like specials you would lose the whole of the Honorary Police because they are not in it for the money. They are in it because they love the Island. We have this long tradition of honorary service but it does seem from what is said that then level of pay depends on which Minister is setting up the quango. It is absolutely ridiculous and, as the Constable of St. Lawrence said, how do we measure the outcomes of the work they do? Do we have any measure of outcome? We are setting these quangos up all over the place, some paid, some not paid. How many of these are going to be similar to Andium and not subject to Freedom of Information? We need full accounts for all and with all the amounts paid to the members of the board. I agree with Deputy Young that we need some sort of proper service level agreement so we

do not find people working extra days and getting extra honorariums, and a minimum level of attendance because there are a number of quangos where they publish the attendance and one or 2 of the members have not turned up very frequently but they get paid. This is taxpayers' money. I would be glad to hear the Minister is going to set up a proper review or he might even ask the Comptroller and Auditor-General to prepare a report on the levels of salaries across the quangos and such.

5.1.10 Connétable J. Gallichan of St. Mary:

I was not intending to speak on this and I was very grateful to hear the words of first of all the Deputy of St. Martin and later Deputy Young, who said a lot of the things I wanted to have confirmation of. Other speakers have prompted me to speak because I am quite staggered by some of the things I have heard. A while ago, diversity, diversifying the economy, was the buzzword. Everybody was saying we must do this, we must diversify the economy; we must grow. Now, innovation seems to be the buzzword. I am afraid some people have to wake up and smell the coffee because innovation and diversification are critically dependant on each other. There is just no other way of looking at it. I would just like to say a little bit. I have been very privileged to be working on a Scrutiny report for some time on the digital skills project and I have been looking very closely at Digital Jersey. I would like to say that the digital community, the technology community over here is absolutely buzzing. It is exciting to see what is going on and what is being involved and there have been lots of events organised focused on innovation. If you Google "Digital Jersey" it says: "Promoting technology and innovation." They go hand in hand. We cannot stress highly enough, having been to so many of these presentations and some first class, world-renowned speakers have been over, that you have to, addressing what the Constable of St. Lawrence said, expect that most of the things innovation leads to will fail. But Jersey has been criticised long and hard and even recently in the talk the other night about being afraid of failure, about not taking a risk. Jersey has been very conservative and very risk-averse. But the time has come when we have to look where the potential for gain lies and it lies through taking a measured risk. That is what the people in the Innovation Fund are skilled at doing. They are looking at the many applications that may come and hopefully, as I have seen, it is a burgeoning thing. There are more and more people getting involved through Digital Jersey in that side of it and that is only one aspect of innovation. We need to be able to take risks but risks in a controlled way and this is exactly why we need the skilled people. I am not one to spend money willy-nilly but it does seem to me that a lot of Members in this House, in this Assembly, are very good at not valuing the work that people do and we expect people to do things for nothing. It is fabulous when people do. That is the backbone of Jersey tradition, but sometimes, as has been said, if you are going to take people out of the commercial world they are going to need some incentive to do it and I think people must realise that the vast majority of things may fail but you only need one success on the scale of Skype or Google and you have recouped everything you have ever spent. Even though, as I say, I am not a great believer in spending more money than we need to I think this is money that probably we do need to spend so I will be supporting this.

5.1.11 Deputy T.A. Vallois:

I feel it is appropriate for me to stand and speak, particularly on this area. As chair of the Public Accounts Committee, Members will be aware of the issues around risks, project management and various other issues that have been identified by P.A.C. (Public Accounts Committee) and the Comptroller and Auditor General over the last 3 years. I completely agree with the last speaker about measured risks and I think we are all in agreement that if you are going to have an Innovation Fund you are going to have to take risks. But when the Minister stood up to propose this particular proposition he talked about the reason for the remuneration and the processes involved. I would like an explanation from the Minister because when we talk about the financial costs, bearing in

mind the financial direction was not passed until about June or July this year. That was delayed and it should have come in with the Innovation Fund agreement in the first place. But, of course, we know the difficulties that have gone on behind the financial directions and all we have to do is look at the Comptroller and Auditor General's report and identify the issues surrounding financial directions and the prescription that is put in place of those.

[12:15]

I would like the Minister to explain to me why the Innovation Fund will be paying for an expectation of an accounting officer's responsibility of due diligence, assessment and approval of applications and why that is not being met by the department, because as I understand it it is the accounting officer who has to comply with financial directions. Therefore why is it the Innovation Fund that is paying the money to support the processes that have been put in place under the financial directions, I have no problem with taking risk but the States has a long way to go in terms of consistency across the board with taking risks and ensuring that everyone is singing from the same hymn sheet. One size does not fit all but there is an ability to have discretion and the people that have those discretions understand their responsibilities not only to the States Assembly but to the wider public when the money is being spent. I will wait until the Minister has answers with regards to this. I feel that the Public Accounts Committee unfortunately have the finger pointed at it when things like this happen because we are the ones that always come out and say: "There is an issue maybe with this particular process or there was an issue maybe with that process." We have always said that we are supportive of the States taking risks but, as the last Member said, they need to be measured. This is public money and particularly now going into the future we need to be careful with how we are putting that forward. I look forward to the Minister's response and I will decide upon the way I am going to vote depending on how he addresses those particular concerns.

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

I just wanted to throw this idea into the pot. There has been a lot of talk about the different levels of pay available to these people who sit on all the various boards. Deputy Young spoke about commitment to the Island and excellence in their field. I was wondering about the idea if Jersey is going to encourage more 1(1)(k)s into the Island and by the very nature of the fact that they are here, generally speaking they have been very, very successful in whatever capacity that they have earned their money in. I just wondered whether the Minister has given any consideration at all as to whether as part of the deal of being allowed to come and live on this Island that they contract to do a certain amount of honorary work to help us find ways of growing our economy. It seems to me that there is a huge pool of talent and expertise there and maybe it is time that we started to tap into it. I just throw that into the pot and I would be very interested to hear what the Minister has to say on that point.

5.1.13 Connétable J.E. Le Maistre of Grouville:

I think we are going to be disappointed at the number of successful applications because I think I know the answer to it. It is 2 at the moment but we must not forget this is very early days. It is also true that the board have had to deal with unsuccessful bids as well and it is very important that these are properly scrutinised. After all it is taxpayers' money. In my view we have to give the Innovation Fund a chance. I hope we will get more bids coming forward and if we do we will need a high calibre board to deal with them so I am in favour of this proposition.

The Deputy Bailiff:

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

5.1.14 Senator A.J.H. Maclean:

I will try to address Members' questions. The Deputy of St. Martin raised probably one of the most important matters in my view and it is one that, as he rightly pointed out, has been raised in a recent hearing that we had with his Scrutiny Panel and that is in relation to the various boards and panels that exist with Economic Development. I should say to Members across the whole of the States of Jersey there are a huge number of boards, panels. Some operate in an executive function, some are advisory, some are truly honorary and others get paid at varying levels depending on, in many respects, the activities that are undertaken. It is important and certainly something that I believe that Economic Development within our own portfolio, we have started to look at ours to make certain that there is an appropriate consistency. I know Treasury has also done some very good work in that area in terms of consistency on the panels and boards that they have responsibility for but this needs to be rolled out across the States because there are in my view some inconsistencies that will need to be addressed in due course. On that particular point, the Deputy of St. Ouen asked about the payment. I should point out, and I did mention it very briefly in passing in my earlier remarks, that the chairman of the Innovation Fund does get paid. That was part of the agreement that Members approved in 2013. He gets a payment of £10,000 which is included as part of the arrangements. The intention was that there would be no payment originally as I mentioned for the non-executive directors of the panel. For the reasons that I have alluded to already, the time commitment is significantly more than was anticipated. The recommendation from the chairman was that this is not about paying these non-executive directors, and I will deal with this up front. I know it is something that Deputy Martin was concerned about and I will come back to her other point in a minute. This is not about paying them. It is about recognising that they are spending a lot of time and this is a small contribution towards their costs. These people quite frankly we could not afford to pay at their going rates. These are entrepreneurs. We have banking expertise, we have legal expertise. The people on that board, the people that give their advice are extremely expensive but they are largely giving their time for free. This is merely an indication that the significantly extra amount that we have asked and called upon them to give to getting this venture up and running should be recognised in a small way. It is not about payment. We could not afford to do that. Senator Farnham asked a question in relation to the size of the fund and the performance to date. The fund as Members will recall was set up initially with £5 million. It did have a slow start. There were initially from the first round 26 applications which the panel have had to consider and that in itself gives an indication to Members why the extra additional time has been spent by the non-executive directors. They actually go to these businesses. It is not just a paper exercise. They go out to many of the businesses that get short listed. They see them. They work through their business application model and what have you, and I might add they give some valuable advice. We have had feedback from some applicants whose application was turned down by the board who have recognised the value of the advice they got through the process. This is, if you like, an unintended benefit from this particular process. There are 26 applications. To date we have signed-off 2. The total amount of funding that has been paid out is £390,000 from a £5 million fund which, as I have said, started in January this year considering the first level of applications. The first application took too long and Deputy Vallois pointed out about financial directions. There was a new financial direction which was identified to try to deal with the issues around risk. This is something another Member raised and there has to be an understanding. A number of Members have brought the point up that we have to understand that there is risk associated with this fund. Some of the loans that are given - primarily it is designed for loans, there is a provision for grants but that would be in extreme circumstances - will fail and as such the financial direction was devised in order to quantify and understand that there would be a risk element to failure that had to be appreciated and understood as part of this process. Just finishing off on the approvals, I have mentioned there have been 2 approved applications to date, Members will have noticed a new advertisement has recently gone out looking for new projects for the fund to support. That to date has attracted 8 applications which will start the process shortly, but I can

say that there are also 5 current live applications in the advanced stages of due diligence that are being undertaken. Those projects are requesting funding in excess of £2 million. Those are 5 current applications with in excess of £2 million worth of applications if they were all to be approved. The likelihood is that they will not all necessarily get through the hoops but that gives a measure to Members. I should also remind Members that the original target for the Innovation Fund was 10 projects. That is what the anticipated number of projects on an annualised basis was going to be. Clearly as far as we are concerned it does not matter so much the number, it is about the value and I will come back to that point very briefly in a moment.

The Deputy Bailiff:

Minister, can I ask you to pause just a moment? There is a mutter and a chattering going on to my right and it would be very much appreciated if that could be contained. It is distracting my attention let alone that of others. Yes, Senator.

Senator A.J.H. Maclean:

Thank you. I thank Senator Ozouf for the comments he made. He did make a point about speeding up. As I have already said the first application took months to go through the various processes. I can say that the second application for a much larger sum of money was completed after recommendation within a month. The process is now improving dramatically. It is something that both the chairman and myself have been very keen to see. We need to have as quick a turnaround as possible ensuring that an appropriate process is undertaken as part of that. Just coming back to Deputy Vallois, she was also asking about the funding on the basis that various functions are undertaken - she is absolutely right - by the executive officer within Economic Development, also I might add by Treasury, by the Economic Adviser because all these applications that come in have economic impact assessments undertaken on them. The Law Officers have a role. There are a number of members within the various departments that provide a service to the fund. That incidentally is anticipated or expected to have a value of around about £50,000 a year. That is not going to be recharged for the fund and I think that was the question that the Deputy was concerned about, that there was a recharge to the fund. That is not the case with regard to those functions, those important functions which have to be undertaken. Deputy Hilton asked about 1(1)(k)s, about their contribution. She was alluding to the fact that perhaps their expertise would be utilised for a fund of this nature and was asking whether that could be tied into some sort of contractual arrangement. I assume she meant on the basis of their licence when they apply for residency here on the Island. That would be difficult but what I can say is that, and I am sure many Members appreciate this, the 1(1)(k)s of course it is a new category now. Is it 1(1)(e)? (k) still runs much more easily off the tongue than the new Housing and Work Law category. Nevertheless what I can say is that these wealthy immigrants who come to our Island contribute enormous amounts in the charitable area, in terms of businesses that they invest in, money they spend and advice that they give within the community. It is an informal arrangement and it works really well. It is evidenced very clearly in many areas and I think to try and tie that in in a formal way would be absolutely impossible. I would just go back to the point finally about the non-executive directors of this Innovation Fund. These are individuals including the entrepreneurs that have run businesses. They have been successful. They earn significant amounts of money. This fund could not afford that level of expertise. All we are seeking to do is recognise some of the time spent for the out-of-pocket expenses. This is not about paying them. It is about recognising the out-of-pocket expenses that they are incurring as a result of the valuable activity of the Innovation Fund. It is now properly up and running. It is within its first year of activity, not 2 years ago, Deputy Martin. I can understand why you thought that. There were various stages in order to get it up and running but it was January of this year that the first level of applications were considered by the panel and they have moved on since then. There were also questions around... and quite rightly, I think it was the

Constable of St. Lawrence who was asking about how we measure success. That is the flip side of the risk element that I was talking about and the fact that there will of course be some failures through the process of the loans that are issued. It is jobs created. It is productivity. We do measure productivity. There has been much talk... and I know Senator Ferguson on my right will probably bring her handbag out in a minute, she has strong views about productivity and productivity measure. She pointed out the other day that productivity has been falling, which it has if you look at the measure but if you split financial services productivity that has fallen and largely not entirely, Senator Ferguson, as a result of interest rates but certainly largely as a result of the interest rate environment, that has caused the productivity levels within the financial services sector to fall. The heavy dominance of that sector within the economy as a whole has brought the Island's productivity down.

[12:30]

Non-financial services productivity which is effectively what we are doing here to try and stimulate other areas of the economy, innovation has been flat-lining. That is not a good performance but nevertheless it is something to build on. It is measured and it is something that I hope in due course if we get enough of these businesses, the right ones at the right level succeeding, will start to have an impact on increasing those figures, increasing job creation. Obviously there will be other benefits that will flow. As I have already said, 10 businesses a year are the quite crude measure, estimated number of businesses likely to be supported. Frankly, if there was one really big one that made a huge difference in its own right then I think we would accept that as well. I would like to thank the Constable of St. Mary for her positive comments about innovation, diversification. It is important. It is difficult. We are doing it in all sectors of the economy including financial services. I do re-emphasise this. It came up in the Chamber of Commerce debate this week that it was mentioned briefly that we are diversifying away from financial services. That is not the case. Financial services has to diversify and is diversifying as an industry. All the good work done there following the McKinsey review of doing business, looking at new geographical locations, new products, and that industry is diversifying but the rest of the economy needs to both increase its productivity but also look at new opportunities in digital as the Constable of St. Mary has pointed out albeit it is not a silver bullet. It is not going to be overnight resolving all our issues and replacing any growth that we see from other previously successful and still successful areas of the economy but it is important in the overall mix of innovation, diversification. She was right, Digital Jersey is doing a good job. There is a real buzz about the place but of course it will take time to see it into the official figures that one will see eventually. I hope that I have done enough to convince Members that although we recognise in some respects the difficulty of these types of payments this is not a large payment. We do need to get consistency across all the panels and boards and such like. That is a piece of work that absolutely must be undertaken. The non-executive directors of the Innovation Fund have done to date a very good job in a difficult circumstance and I think to recognise their additional time spent is an appropriate step to take today and I would hope Members would support it and show that there is full support behind the importance of the Innovation Fund, its future and that it will move from strength to strength from where it is today. Thank you very much, I maintain the proposition.

Deputy J.A. Martin:

Can I ask the Minister for some clarification? He said 2 things in that speech of importance. One, that this board has been very busy because they go out and see businesses and then he said that the board is supported by officers from his department and Treasury, and I think they are quite well paid officers. Can he assure this House that the officers under this board are not whittling down applications and every innovation application is considered by the board or are they whittled down by the very well paid officers before they get there?

Senator A.J.H. Maclean:

No, not at all. What in fact happens is the applications come in and the board consider every single application that comes in and, as I pointed out, they include in that process talking to the businesses. Unfortunately there are some applications, as Members would expect, that come in that is clear from the paperwork are not going to be supportable but anything that is supportable and whittled down into a shorter list by the Innovation board members themselves they then, as part of their due diligence process, attend upon the businesses and go through that process. It is their role and responsibility to make recommendations ultimately to the Minister and so they do all that work beforehand before it comes back to go through an additional piece of due diligence to meet financial directions, which Members would expect should be undertaken with public money.

The Deputy Bailiff:

I invite Members to return to their seats. The vote is on the proposition P.134 lodged by the Minister for Economic Development and I ask the Greffier to open the voting.

POUR: 38		CONTRE: 5		ABSTAIN: 0
Senator P.F. Routier		Connétable of St. John		
Senator P.F.C. Ozouf		Deputy R.C. Duhamel (S)		
Senator A. Breckon		Deputy J.A. Martin (H)		
Senator S.C. Ferguson		Deputy N.B. Le Cornu (H)		
Senator A.J.H. Maclean		Deputy S.Y. Mézec (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. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.G. Le Hérisier (S)				
Deputy of St. Ouen				
Deputy J.A.N. Le Fondré (L)				
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 J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				

Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Deputy Bailiff:

I am wondering, Minister, whether it might have been convenient to deal with the P.142 or P.145 at this stage before lunch?

Senator F. du H. Le Gresley:

Yes. I was going to crave your indulgence and allow that to happen because I have a speech which could last about 10 minutes.

The Deputy Bailiff:

Will it be convenient to deal with that?

Deputy J.M. Maçon of St. Saviour

I have one that will last perhaps 2.

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

I am happy to do P.138 if you are happy, Sir. It is very short.

The Deputy Bailiff:

I am sorry?

The Connétable of St. Trinity:

P.138?

6. States of Jersey Complaints Panel: appointment of Deputy Chairman (P.142/2014)

The Deputy Bailiff:

The chairman of the Privileges and Procedures Committee is absolutely itching to go, Connétable, so perhaps we can take that one first. This is P.142. I ask the Greffier to read the proposition. It is the proposition to appoint a deputy chairman to the States of Jersey Complaints Panel.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion in accordance with Article 5(2) of the Administrative Decisions (Review) (Jersey) Law 1982, to appoint Mr. Geoffrey George Crill as deputy chairman of the States of Jersey Complaints Panel for a period of 3 years.

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

I am very pleased to be able to nominate Mr. Geoffrey Crill as one of the 2 chairmen of the States of Jersey Complaints Panel. Before I do so however I would like to pay tribute to Miss Christine Vibert whose term of office as deputy chairman recently expired. Miss Vibert was first appointed to the panel on 1st January 1997 and had therefore served nearly 17 years. She was deputy chairman for the last 18 months of her service, and I know all members of the panel and the officers who supported it have greatly valued working with her. On behalf of all Members I would like to pass on our gratitude to Miss Vibert for the incredible service she has given on an honorary basis. **[Approbation]** In order to replace Miss Vibert as deputy chairman an advertisement was placed in the *J.E.P. (Jersey Evening Post)* and the 4 current members of the panel applied. These were all interviewed by the chairman of the panel, the other deputy chairman, a member of the Appointments Commission and the Greffier of the States. The panel was unanimous that Mr. Crill

was the strongest candidate and that he should be nominated for this position. Although there was no requirement for the chairman and deputy chairman to be legally qualified, and Miss Vibert was an exceptional example of one who was not, it has proved useful in the past for the deputy chairman to be legally qualified and Mr. Crill's qualifications and experience will therefore be particularly useful. He has already served as a member of the panel for nearly a year and therefore has the knowledge and experience of the work of the panel. I am very pleased to nominate Mr. Crill as deputy chairman. I ask Members to support his appointment.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak? Deputy Young.

6.1.1 Deputy J.H. Young:

Just to echo the words, I think we are extremely fortunate to have such a very high quality person here putting himself forward for this, particularly one notes on the back page it says that this is in an honorary capacity as if reflecting our previous discussion. That does reflect the importance of resolving the long term issue there but I think this is an absolute example of Jersey community at its best, somebody of real quality coming forward to provide this excellent service. I make a note that while this body, the Complaints body is so important that Members will probably know of my wish that in the future the amount of complaints and the problems that come forward that are not seeing their way through the departmental systems I think eventually we will need this body to be morphed up and strengthened in some way into an Ombudsmen but we have this now. We have an excellent person and obviously that is the way forward for now. I am 100 per cent behind this.

The Deputy Bailiff:

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

6.1.2 Deputy J.M. Maçon:

I thank Deputy Young for his comments. It is always welcome when a member of my committee endorses what we are trying to do and therefore thank you.

The Deputy Bailiff:

All Members in favour of adopting the proposition kindly show. Against. The proposition is adopted. Connétable, do you think you can do it in 5 minutes?

The Connétable of Trinity:

Yes, Sir.

7. Draft Public Elections (Amendment No. 4) (Jersey) Regulations 201 (P.138/2014)

The Deputy Bailiff:

Very well. We will turn now to P.138, the Draft Public Elections (Amendment No. 4) (Jersey) Regulations lodged by the Comité Des Connétables, and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

The Draft Public Elections (Amendment No. 4) (Jersey) Regulations 201-. The States, in pursuance of Articles 5A(8) and 7(4) of the Public Elections (Jersey) Law 2002, have made the following Regulations.

The Deputy Bailiff:

Do you propose the principles, Connétable?

7.1 The Connétable of Trinity (Chairman, Comité des Connétables):

These draft Regulations are the consequence of this Assembly having recently amended the Public Elections Law. The amendments to the Public Elections Law include that a person may register as an elector up to 3 months before he or she meets the age or residence criteria. To register as an elector a person must complete the prescribed form. The wording on the current prescribed form says that a person must meet the elector criteria on the day they apply. As the law now allows advance registration the prescribed form needs to be amended to say that the person may meet the criteria within 3 months of the date on which he or she applies. This is what the draft regulations will do. I propose the preamble.

The Deputy Bailiff:

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

7.1.1 Deputy N.B. Le Cornu:

Can I just ask when this law will be effective? I would certainly like to be going out to campaign immediately with a revised form and to register people who will be eligible.

7.1.2 Deputy M. Tadier:

I am supportive of this of course. There is an anomaly which needs to be raised. It might be more philosophical or technical rather than practical but in fact what we have now is given that somebody can register before their 16th birthday and given that we have pre-polling and somebody could be 16 on the election day itself and they would be able to cast a vote when they are 15 by pre-poll is that not correct? I think it is correct because somebody will be on the electoral roll, and I stand to be corrected, but this is what I am putting to the Connétable, maybe he can clarify but it would seem to me that if you are eligible to vote on election day and you are not on the Island you should be able to vote by pre-poll or in advance. Are we going to get the scenario where 15-year olds who are going to be 16 on election day or shortly before can pre-poll, and if they cannot what provisions are going to be made for them if they cannot get to the polling station on the day of the election itself.

7.1.3 Deputy J.A. Martin:

I am sure the Member previously was trying to be helpful and I would really like to thank the Constables for getting this and getting it sensible. What it is is you may be 16 between, or been here 2 years, the cut-off date which is next Monday at noon and the election day and we already agreed that they could not be properly pre-poll unless they are 16 on the day of the election or the day before or the day before that. The form is very sensible and I commend the Constable for getting it back to the States in time.

The Deputy Bailiff:

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

7.1.4 The Connétable of Trinity:

To my knowledge it would be available from tomorrow and I thank Deputy Martin for clarifying the points made answering for Deputy Tadier. I thought he might have known that but not to worry. I would just like to say that up to Monday one person had availed of the form.

The Deputy Bailiff:

The principles are proposed. All those in favour of adopting the principles kindly show. Those against? The principles are adopted. Do you propose the Regulations *en bloc*, the Second Reading? Seconded? [**Seconded**] Does any Member wish to speak? All those in favour of adopting kindly show. Those against? Do you propose the Regulations in Third Reading?

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

ARRANGEMENT OF PUBLIC BUSINESS

8 Vote of No Confidence: Minister for Treasury and Resources (P.148/2014)

8.1 Senator I.J. Gorst:

Before we adjourn for lunch I wonder if I could indulge Members and ask them just to consider how might be the most appropriate way to deal with P.148, which has been lodged this morning, and I wonder if the chairman of P.P.C. (Privileges and Procedures Committee) could also consider. It would seem to me that we need to debate this as soon as we possibly can and I think Members should consider whether perhaps a debate tomorrow might be sensible rather than holding it off until after the Budget day at the end of the Budget sitting week. **[Approbation]**

[12:45]

I am not even sure on that agenda whether we will have time to debate it then or not. I am just simply saying that perhaps Members could think about whether they would consider it tomorrow and we could have a vote on it after lunch, thank you.

8.2 The Deputy Bailiff:

I give notice that I shall want to consider that over lunch myself, Chief Minister. I am not at all sure that it would not be an abuse of the minority and I wish to consider that carefully.

8.3 Senator P.F.C. Ozouf:

Sir, if I may advise, certainly if I am the minority, which is being abused, or one of them, we just would say this publicly, I know you are going to consider it, but we are almost at the end of this term of office and a vote of no confidence has been lodged. I have a Budget to present before this Assembly. It seems to me that it is completely unworkable that we have a vote of no confidence and then we go on to a Budget. I for one, Sir, if I am a minority of the person targeted, I certainly, if it is the will of the Assembly to debate this, for example, tomorrow morning or tomorrow afternoon, then I will be ready. I am prepared to work overnight in order to explain to Members, and, if necessary, to provide reports. If Members want a few extra hours tomorrow, perhaps we can do it tomorrow afternoon, but I will be ready. But it would be completely, I think, unfair to me. I have taken quite a lot of stick in my term of office, I clearly have some more to come, that is fine, I do not mind that, I will robustly defend policies. But it would be unfair from my point of view to have my Treasury Department and myself preparing for a Budget with this hanging over. I also would respectfully say that it is not something that could simply just fall away to have something unresolved. It has been lodged and I would like to know whether the Assembly has confidence in me or not. If they do not, I will go and somebody else can do the Budget. But I think I am entitled to an early determination of this and I hope that you will consider that in your deliberations because I am a minority here as well.

The Deputy Bailiff:

It raises some difficult and sensitive issues on both sides, Senator.

Senator P.F.C. Ozouf:

But they are matters ultimately for the Assembly to decide.

The Deputy Bailiff:

That I am not sure about.

Senator P.F.C. Ozouf:

We look to your guidance but we will be able to discuss this therefore after lunch and make a determination by the end of the afternoon?

The Deputy Bailiff:

By the end of the afternoon we will certainly make a determination. We will not deal with it immediately after lunch, not least because there is some legislation to deal with first, but we will certainly deal with it when it comes to the arrangement of public business for the future sessions.

Senator P.F.C. Ozouf:

Just for good order, it would be appropriate, if you wish to make certain rulings, which might prevent Members expressing their will, perhaps you would make those observations in a period of time that could be then digested rather than just going straight to the States business. I will leave you to consider that, Sir. But it is just it would be unfair for us to be caught unawares.

The Deputy Bailiff:

Then it is going to go both ways I think on this.

Senator P.F.C. Ozouf:

Indeed.

The Deputy Bailiff:

Deputy Southern, are you ready to take your proposition tomorrow, P.148/2014?

8.4 Deputy G.P. Southern:

That would surprise me indeed, Sir. I knew it was not quite lodged in time, but it certainly was not lodged a fortnight ago. I was expecting to take it as first item and clear it one way or the other on Budget day.

The Deputy Bailiff:

Perhaps over the course of the luncheon adjournment you will wish to consider whether you can be ready for tomorrow.

Deputy G.P. Southern:

Yes, Sir.

The Deputy Bailiff:

The luncheon adjournment is proposed?

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

The States stand adjourned until 2.15 p.m.

[12:49]

LUNCHEON ADJOURNMENT

[14:16]

The Deputy Bailiff:

The Chief Minister suggested shortly before lunch adjournment that the Assembly should vote this afternoon on whether P.148/2014 should be debated tomorrow. For the benefit of those listening to these proceedings, P.148/2014 is a proposition brought by Deputy Southern inviting the States to express a lack of confidence in the Minister for Treasury and Resources. Senator Ozouf has

endorsed the Chief Minister's suggestion that it would be unworkable for him to defend himself against a no confidence proposition and at the same time prepare for the Budget, which is due to be debated on Monday, 22nd September, and the days following. Deputy Southern objects to dealing with his proposition any earlier than the week of 22nd September. In addition, he has told the Greffier that when P.148/2014 is debated he wishes to have a transcript of the relevant questions put to the Minister for Treasury and Resources yesterday and the answers, which he then gave. It is in my view not open to the Assembly to do what the Chief Minister suggests. First of all, Standing Order 30 provides that when a proposer, when lodging a proposition, agrees with the Greffier when the proposition should be listed for a debate, paragraph 2 of that Standing Order enables the proposer, at any time before the debate on his or her proposition, to inform the Greffier that he wishes it to be listed for a different meeting, and then to agree the meeting date on which that shall be listed. It has been the position for many years that if a proposer wishes to withdraw a proposition from the list before it is formally proposed and debated, it is within his or her gift to do so. Whether that should or should not be the position is a matter which no doubt the Privileges and Procedures Committee might wish to consider if it thinks fit. At its most basic, however, the States cannot make Deputy Southern turn up at 9.30 a.m. tomorrow morning to propose his proposition. Standing Orders would need to contain some provision that if a proposer failed to propose his proposition when the States had required him or her to do so, then it would be deemed to have been put and defeated, or language to that effect, and no such language exists. The second reason that in my view it would be out of order to determine that P.148/2014 should be debated tomorrow is that Standing Orders do not contain appropriate provision to enable that result to be achieved. There could be a proposition under Standing Order 26(7) to reduce the minimum lodging period to one day if the States were of the opinion that it is in the public interest to do so. Of course the adoption of that proposition to reduce the lodging period would mean that the States were of the view that it is in the public interest that debate takes place sooner than the requisite lodging period would permit. But, even so, the proposition to reduce the minimum lodging period simply enables the proposition to which it relates to be debated; it does not require it to be debated. The rules for determining when a proposition is debated are primarily set out in Standing Orders 50 and 87. Standing Order 50 ensures that States business includes agreeing arrangements of public business at a future meeting and the arrangements for this meeting were considered and approved at the States sitting at the end of July and P.148/2014 naturally is not on the Order Paper. A proposition to debate P.148/2014 at the present meeting does not require to be lodged under Standing Order 18B. It can be brought under Standing Order 87(1), which is in these terms: "A Member of the States who has given the notice required by Standing Orders may propose during a meeting that the States debate at the meeting a proposition that they have not previously agreed to debate at the meeting." The expression "given the notice required by Standing Orders" is a reference to Standing Order 32, which requires that a Member of the States who wishes to propose during a meeting that the States debate a proposition they have not previously agreed to debate at that meeting must give notice of his or her intention to the Greffier at least 2 clear working days before the meeting day. No such notice has been given in this case and therefore the proposal is not consistent with Standing Order 87(1). Standing Order 21 contains provisions about how propositions are to be lodged. The proposal, which the Chief Minister has suggested, is not a proposition, which requires lodging, and Standing Order 21 does not therefore apply. But it is clear that the Standing Order makes provisions for propositions to be approved by the Bailiff and he will not approve them if the propositions are out of order. For the reasons I have given, I think it is clear under Standing Orders, despite the obvious approval of the Chief Minister's suggestion by several Members before lunch, that the suggestion would be out of order. It may be thought that a way around the difficulty would be to suspend Standing Order 32, which requires 2 clear working days' notice to be given. In case any Member should be thinking in that way, I should like to add that the consequences of that suspension would be in my view that Standing Orders were silent as to whether a proposition

of this kind, which does not need to be lodged, required the approval of the Presiding Officer as being in order. Standing Order 167 contains provision that the Bailiff shall decide any question of order or procedure, which is not provided for in Standing Orders. The Bailiff's decision is not open to appeal if the question upon which a decision is needed arises during a meeting. It can only be reviewed later on a proposition lodged for that purpose. I rule that propositions under Standing Order 87 still require the approval of the Presiding Officer, though they do not need to be lodged, and in considering whether or not to give approval the Presiding Officer should first have regard to Standing Orders. There is no Standing Order, which, on this premise, deals with the proposition of the kind, which is now contemplated. But, if we were to reach that stage, my ruling would be that the procedure envisaged by the suggestion of the Chief Minister would be unfair to the proposer of P.148/2014. I reach that view for these reasons: first of all, when P.148/2014 was lodged, the proposer would have expected the debate to take place 14 days' later or possibly at the beginning of that meeting. To balance and enter a debate on 24 hours' notice does not afford him a proper time to prepare a case for presentation to the Assembly. It is no answer to this to say that the position of a Minister for Treasury and Resources at the centre of Government who has obligations to present a Budget for debate shortly is such that great damage could be done if the uncertainty is not quickly resolved and he can concentrate on the Budget debate. The position of Minister for Treasury and Resources is indeed a crucial position but that is just why any question over the merits of any particular individual holding that office needs proper debate. Secondly, the position is aggravated by the very short delay, which is proposed. Had it been a debate proposed in 10 days' time that might have been different. Thirdly, it is further aggravated by the absence of any written comments by the Minister defending himself against the criticisms made or setting out his track record and achievements. The proposer does not have the opportunity to consider such points in advance. Fourthly, there is merit in the proposer's objection that in putting forward P.148/2014 he will want to refer to answers given by the Minister to questions put to him yesterday. Some Members may be aware that, following the Code of Laws approved by His Majesty in 1771, there was a provision that any proposition put before the States should be subject to lodging for 14 days before it could be debated. The purpose was to enable proper consultation to take place in the Parishes through the Connétables, who were then the parochial representatives. When the States of Jersey Law 2005 was adopted, the States took the decision to remove the requirements in law, but to place these provisions in Standing Orders. Because Standing Orders can be lifted by agreement of the States for particular debates, the protection available to minorities is capable of being affected. To some extent, Standing Orders allow the Presiding Officer to disallow proposals as an abuse of procedure or an infringement of the rights of the minority and Standing Orders 84 and 85 in relation to proposals to close the debate or to move on to the next item are examples of this discretion. This is a signal that the Presiding Officer is indeed expected to defend the rights of the minority and to ensure that democratic debate takes place on propositions, whether they are propositions brought by the Executive or by those who are not. For the reasons I have given, if it comes to the point through the suspension of Standing Orders, I would rule that the suggestion that the Assembly debates P.148/2014 tomorrow at this meeting as being out of order.

Deputy G.P. Southern:

Sir, may I offer a potential solution, a way forward? It occurs to me the Greffe says that there could be a transcript of question time yesterday available to me on Friday. There is also a Scrutiny Report coming on Friday. That would enable me to prepare over the weekend much of what I have to say in the light of those 2 issues and debate possibly on Monday or Tuesday. Tuesday is nomination day, but Monday certainly. But I think the earliest I could be ready to do that, and wishing to get it out of the way so that the Minister for Treasury and Resources can continue, if necessary, with his Budget, is Monday. Is that possible, Sir?

Senator I.J. Gorst:

Sir, obviously we would have to ask for your ruling, and might I start by saying I hope you enjoyed your lunch. I do support the compromise that Deputy Southern is proposing and I thank him for a thoughtful way forward.

Deputy G.P. Southern:

Could I be a little more specific, Sir, is Monday morning all right, because Monday afternoon is extremely difficult for me?

The Deputy Bailiff:

If I may say so, a motion of no confidence where it is expected to take it and debate it in a morning only, when who knows how many Members are able to attend in any event, because they will have other arrangements, strikes me as being somewhat unsatisfactory. But it is something that no doubt can be revisited at the end of this afternoon's agenda when we come to consider arrangements of future public business.

Deputy R.G. Le Hérissier:

Sir, if this debate were to proceed and the vote against the Minister were to be won, what is the legal status of the Budget? Surely the Minister is compelled to bring a Budget before the end of session. Would we therefore have to immediately elect a new Minister for Treasury and Resources who would then have to formulate a new Budget before the end of the session?

The Deputy Bailiff:

No, Deputy, the Minister is a corporation sole, the Budget proposal has been lodged and the Chief Minister under the States of Jersey Law would take over the responsibilities of the Minister for Treasury and Resources and therefore I assume, under ...

Deputy R.G. Le Hérissier:

Could we, in all seriousness, sorry, Sir, could we in all seriousness be looking at a Budget where apparently all faith had been lost in the Minister who had formulated that Budget?

The Deputy Bailiff:

The answer to that would be to express that loss of faith no doubt in the way you Members vote at the time the Budget comes to be considered, but that is not a matter for now.

Deputy J.H. Young:

I get the impression we are going to come back to this subject at the end when we deal with public business. Could we be told when the Scrutiny Report is going to come out, because my concern is that members who are not involved directly need time to read and digest all this, so could we be told now when this report is due?

Senator S.C. Ferguson:

Yes, it is a very chunky report, Sir, and we do have 2 fairly substantial advisers' reports, which I think everybody should be able to read before the Budget, and we are endeavouring to get it out to Members by Friday. But it may be the electronic version by Friday and the paper version by Monday.

Deputy G.P. Southern:

One further suggestion, not to be decided now, but for consideration so that we can address it later, thinking about it, Tuesday, which is normally an extension day, might be better than Monday.

Senator I.J. Gorst:

Sir, notwithstanding your ruling, and I am not going to comment on that at this point, could I ask you to consider whether you think the suggestion that Deputy Southern has made would be in order during the course of the afternoon please so that when we come to discussing States business we have your opinion on that as well please?

Deputy S. Power:

Sir, may I make one comment in relation to any States business that is going to be parachuted into next week, and that is that next week is a heavy planning agenda week for 7 colleagues in this Assembly and there is preparatory work to do for Tuesday and Thursday next week. I would caution Members and colleagues to try and rush into something next week when we are ill-prepared. There is serious States business set for next week.

[14:30]

Senator P.F.C. Ozouf:

The suggestion for debating it tomorrow was on the basis that Deputy Southern had lodged the proposition and knew his arguments, but I am grateful for your ruling, and certainly we were trying to be helpful in order to dispatch something, but if Standing Orders trump these matters then fine, the suggestions were designed to be helpful. In order further to be helpful, because effectively this issues does need to be resolved before the Budget debate starts, and surely we cannot have a vote of no confidence in a Minister for Treasury and Resources on the same day as the Budget is proposed, hence I accept the opportunity of the compromise that Deputy Southern has put forward. If it may be helpful to Members, the Treasury too is providing comments, there is further work, as I have indicated yesterday, most of that documentation and most of those reports will be available on Friday, so it seems to me that unfortunately that Members will be working over the weekend. I am sure they will have all the information and that, if it is possible to dispatch, one way or the other, the matter of the confidence in the Minister for Treasury and Resources, then all the Treasury information will be available by close of business on Friday, including a comment on this proposition.

The Deputy Bailiff:

My suggestion is that the Assembly revisits this at the end of the afternoon and indeed it may be appropriate to adjourn temporarily for 15 minutes or so at the end of the afternoon in order that discussions can take place between the Chairman of Privileges and Procedures and the proposer and indeed the Chief Minister and the Minister for Treasury and Resources.

Senator P.F.C. Ozouf:

But, in advance of that, I think it might be helpful, just as I requested before lunch, is to know whether or not the suggestion of taking this on Monday or Tuesday is possible, as the Chief Minister said. Because, if we cannot do that, then I am in an impossible position, Sir.

The Deputy Bailiff:

I would like to reflect on that when I am in another place. **[Laughter]** Greffier, please.

9. Draft Income Support (Special Payments) (Child Personal Care) (Jersey) Regulations 201- (P.135/2014)

The Greffier of the States (in the Chair):

We come now to Draft Income Support (Special Payments) (Child Personal Care) (Jersey) Regulations lodged by the Minister for Social Security and I will ask the Greffier to read the citation.

Assistant Greffier of the States designate:

Draft Income Support (Special Payments) (Child Personal Care) (Jersey) Regulations 201-. The States, in pursuance of Articles 8 and 18 of the Income Support (Jersey) Law 2007, have made the following Regulations. [Approbation]

The Greffier of the States (in the Chair):

The Assistant Greffier designate in the absence off the Island on States business of the Deputy Greffier, and the absence in another place, the Deputy Bailiff will be grateful for that welcome. Minister. [Laughter]

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

I am delighted that I am going to get 100 per cent support for this proposition based on that wonderful introduction, which was of course not prompted by my proposition. Yes, so here we are again, and this proposition replaces P.90, which has now been withdrawn. Members will recall that when we debated P.90 on 2nd July the proposition I had lodged in respect of benefit payments for children with very severe debilities, that proposition was subject to a successful amendment by Deputy Martin. However, despite the wishes of Members, my department would have been unable to implement the proposition as amended. This was mainly because we would only have had a period of some 7 days to set up an entirely new benefit and we were unable to identify an appropriate source of funding in this timescale. Consequently, I was forced to make the difficult decision to withdraw that proposition and go back to the drawing board, mindful of the need to lodge alternative proposals as soon as possible. So, today I bring these revised Regulations, which I am confident better reflect the strong commitment of Members, as evidenced by the passionate speeches that were given on the day, to give greater support to families with a severely disabled child. It was clear to me, as it would have been clear to anybody listening to the debate that day, that this Assembly was supportive of benefit payments to severely disabled children, regardless of the income of the parental household. During the week following the debate, I arranged a meeting, or meetings, with Deputy Martin and other Ministerial colleagues to discuss a way forward. Funding implications were considered, options discussed, and the result was that I requested my officers to design new proposals that were more reflective of the will of this Assembly and Deputy Martin's successful amendment. I would like to thank Deputy Martin for the invaluable input she brought in her role as Assistant Minister for Health and Social Services with special responsibility for children, and the local families who shared their stories with her. The purpose of these revised Regulations is to achieve 2 things: first it formalises the provision of the highest level of the personal care component, which is called PC3, which pays £145.25 a week to any family that includes a child with a very severe disability, regardless of income. This will commence 7 days after these Regulations are approved and mirrors the intention of my original proposition. I should stress that families with a child in this situation can and do already apply for this payment as a Ministerial exceptional payment providing one adult member of the household meets the residency conditions of income support. So this change simply formalises these payments in law for the first time, simplifying the application process and providing a right of appeal. However, following the result of the previous debate, the Regulations also create a wholly new provision for the second level of personal care component, known as PC2, which pays £101.15 per week to any family that includes a child with a severe disability regardless of income. In order that my department can train additional staff to administer this benefit and prepare for new assessments, families will be able to start applying for these payments from 1st January 2015. As it will undoubtedly take time to process the new applications we receive, I can confirm that the new benefit will be backdated for all successful claimants to 1st January 2015. In order to fund changes to personal care level 3, my department has £22,000 of funding available to meet the additional annual cost of providing those payments to all children that qualify for this highest level of support. We identified this funding as

part of the overall project to create £3 million savings within the Income Support budget in 2014. In order to meet the cost of children qualifying for personal care level 2, we will submit a growth bid in the next Medium-Term Financial Plan in respect of funding for this benefit and associated administration from 2016 onwards. The estimated cost of this is £470,000 per annum. Funding for next year lies outside of the current Medium-Term Financial Plan budget and we will need it to be identified from departmental underspends or from the use of central contingencies. In addition to the ongoing annual cost of £470,000 for 2015, an estimated £100,000 of implementation and one-off costs will need to be met to make a total of £570,000 required in 2014/15. Deputy Martin's original amendment also included children qualifying for the lowest level of personal care, known as PC1, which pays £22.96 per week. This was a new component, which was introduced at the start of Income Support, to help parents with a child who had a low level of disability. To be absolutely clear, it had no equivalent under the previous benefit system. Constructive discussions with Deputy Martin have identified the disproportionate administrative costs of undertaking full assessments in respect of potentially a large number of children with a wide range of less-severe medical conditions, who might qualify for this benefit at PC1 level. In the light of those high costs, Deputy Martin has agreed with me to support the current proposed regulations, which do not make any changes to the eligibility for personal care level 1. This is on the firm understanding that my department will investigate if there are more appropriate ways to provide targeted support to children who have low levels of disability in non-income-support households. This will take place as part of the wider discussions on the Disabilities Strategy for Jersey. So, the Regulations now proposed take children with personal care levels 2 and 3 outside of the means test for income support. This is achieved using the existing Special Payment Regulations of income support. This Regulation change is also supported by 2 additional sets of Regulations, which make minor amendments to existing Income Support Regulations. In addition, a Ministerial Order will be made, consequential changes to the Income Support General Provisions (Jersey) Order. I propose the Regulations.

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles?
Deputy Martin.

9.1.1 Deputy J.A. Martin:

I would just like to thank the Minister and his department for acting very quickly after the debate and the obvious - as the Minister said - support once we had this debate in the House. It is true to say that there will and should be a better way forward for personal care level 1. Some children only need this for a short amount of time and when I am told that I will need x amount of thousands of pounds worth of officer time to assess this, it makes sense for everybody. Health and Social Security, and whoever is in the Chief Minister's office working on the new Disabilities Strategy, will be looking at this in the new Assembly. So really I would just like to say that I hope everybody can support this today. It is all ready, people know that it is coming, and I would just like to say also, in the likes, I have had to approach the Minister as well, because some children have already been assessed, and these were the children we were dealing with, for that little interim special payment, and some have been accepted, some are sort of still out there, but the Minister has been as helpful as he can because these children have been assessed and they will get it in their own right from 1st January. So, having said that, it has been a pleasure to work with the Minister as his Assistant Minister in the department and I thank him for bringing it back so promptly and that the PC3 will be in 7 days and 1st January for PC2. Thank you, Sir.

9.1.2 Deputy G.P. Southern:

I too rise to my feet to give praise to the Minister for being so prompt and efficient in bringing back this particular measure, and also to Deputy Martin for being so dogged and determined over the years to make sure that something happened about these children, because in fact the solution that we have now, which appears absolutely solid and workable, is one that was promised 2 Ministers ago. We thought we had solved it once at the very outset of income support back in 2008. It turned out to be a temporary solution and since then no one has addressed that until this current Minister for Social Security who has dealt with it, and dealt with it properly. So I think it has been a while and it is yet another example of good use of Scrutiny, which identified this gap way, way, way ago, a long time ago - 2008/09 - and finally its recommendations are coming to pass, so I am very pleased indeed with the Minister and with the whole process.

9.1.3 Deputy J.H. Young:

Very briefly. I just wanted to rise to say, as a Back-Bencher for the last 3 years, this is the finest example - this matter - of a Minister responding to the wishes of this Assembly and that a Member on these Benches, albeit an Assistant Minister, working hard, Scrutiny, and the Minister coming back promptly to take on board those views and producing the outcome, so I think that really is an example for others to follow. I think he should be congratulated on it. Of course, the whole thing is for the public good, exactly what the intention was.

[14:45]

9.1.4 Senator P.F. Routier:

I would just like to add some thanks also to the group, it is not because I chair it, but because they serve as a user forum, it is a group of service users that we meet on a regular basis and they bring forward suggestions and recommendations on how people who use services within our Island system who have disabilities or special needs that they endorse this wholeheartedly. Moving forward, whoever will be dealing with the Disabilities Strategy next year, I wish them all the very best. I do know it is a big piece of work, which the Chief Minister's Department want to progress as quick as we possibly can, and if I am around I would love to be part of that group.

The Greffier of the States (in the Chair):

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

9.1.5 Senator F. du H. Le Gresley:

I think it is sufficient for me to say I thank those who have spoken and maintain the Regulations in the First Reading.

The Greffier of the States (in the Chair):

All those in favour ... the appel is called for on the principles to the Regulations. I invite Members to return to their seats and I will ask the Greffier to open the voting.

POUR: 36		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator A. Breckon				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				

Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.J. Rondel (H)				

The Greffier of the States (in the Chair):

Deputy Hilton, your panel does not wish to scrutinise the ...

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

No thank you, Sir.

The Greffier of the States (in the Chair):

Very well. Minister, do you wish to propose Regulations 1 to 4?

9.2 Senator F. du H. Le Gresley:

Yes Sir. They are very straightforward and I propose them *en bloc* and take questions.

The Greffier of the States (in the Chair):

Are the Regulations seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations? Very well, all Members in favour of adopting the Regulations kindly show. Any against? They are adopted. Do you propose the Draft Regulations in Third Reading, Minister?

Senator F. du H. Le Gresley:

Yes Sir.

The Greffier of the States (in the Chair):

That is seconded? **[Seconded]** Does any Member wish to speak on the Third Reading? All those in favour of adopting the Regulations in the Third Reading kindly show. Any against? They are adopted in the Third Reading.

10. Draft Income Support (Amendment No. 12) (Jersey) Regulations 201- (P.136/2014)

The Greffier of the States (in the Chair):

We come next to next set of, I understand, associated Regulations, the Draft Income Support (Amendment No. 12) (Jersey) Regulations 201- P.136/2014 and I will ask the Greffier to read the citation.

Assistant Greffier of the States designate:

Draft Income Support (Amendment No. 12) (Jersey) Regulations 201-. The States, in pursuance of Articles 5 and 18 of the Income Support (Jersey) Law 2007, have made the following Regulations.

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

These proposed amendments to the Income Support (Jersey) Regulations are necessary to support the proposition we have just adopted. In order for those Regulations to make a payment to a child under school-leaving age independent of the household income, it is necessary to change paragraph 6 of schedule 1 of the Regulations so that in future only adults are eligible to receive the personal care level 2 and personal care level 3 components. I make the proposition in the First Reading.

The Greffier of the States (in the Chair):

Are the Principles seconded? [**Seconded**] Does any Member wish to speak on the Principles? Deputy of St. Ouen.

10.1.1 The Deputy of St. Ouen:

Yes, just a quick question and a point of clarification that maybe the Minister can deal with. In the report under financial and manpower considerations, the previous proposition that has been adopted, P.135/2014, on page 5, it speaks about financial and manpower considerations regarding PC2 and it states in the bottom paragraph that: "Although a growth bid will be made in respect of the second M.T.F.P., because the bid has not been previously included in the preliminary planning of the next M.T.F.P., savings will need to be made in other areas to fund the additional cost." I would just like him to briefly explain how he has managed to come to that conclusion when the M.T.F.P. - the next M.T.F.P. - has not been lodged or debated, and, furthermore, how it impacts on the financial implications of this particular Regulation we are debating now.

The Greffier of the States (in the Chair):

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

10.1.2 Senator F. du H. Le Gresley:

If I understood the Deputy of St. Ouen correctly, he is going back to the proposition we have just debated, the P.135/2014, and looking at the financial and manpower implication of that proposition. Now we are dealing with another proposition. However, what I am saying in the financial and manpower implications is, if this benefit is to go forward in the future, we will need to make a bid in the next Medium-Term Financial Plan, because it is additional spend for my department. Obviously, if, during that bid, that money cannot be found for this benefit, then I would have to address the issue, because it is paid out of tax-funded money and we would have to look at the global sum we have for tax-funded and see whether we could continue with this benefit but make a reduction somewhere else. So that is really where we are. But certainly for next year we will use departmental underspends and we have assurance from the Treasury Department that they will provide any shortfall through central contingencies.

The Deputy of St. Ouen:

I did ask: how does that compare with the financial implications of the particular Regulation that we are debating now and whether it is the same or whether there is a difference.

Senator F. du H. Le Gresley:

There are no implications for this Regulation we are debating now in the sense that all this is doing is clarifying within the Regulations to do with income support that PC2 and PC3 is only available for adults. That is all we are doing here. So it means that there will no longer be coming out of the main income support budget money for children who are assessed at PC2 or PC3; that money will be found through special payments, which is a different part of income support.

The Greffier of the States (in the Chair):

All those in favour of adopting the Principles kindly show. Any against? The principles are adopted. Once again, Deputy Hilton, you are shaking your head?

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

No, thank you, Sir.

The Greffier of the States (in the Chair):

You do not wish to scrutinise this matter. Minister, do you wish to propose Regulations 1 to 4 together?

10.2 Senator F. du H. Le Gresley:

Yes, Sir, I will take them *en bloc* and any questions.

The Greffier of the States (in the Chair):

That is seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations? All those in favour of adopting the Regulations kindly show. Any against? They are adopted. Do you propose the Regulations in Third Reading, Minister?

Senator F. du H. Le Gresley:

Yes, Sir.

The Greffier of the States (in the Chair):

Is that seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting the ... the appel is called for in Third Reading for the Regulations. All Members in their designated seats? I will ask the Greffier to open the voting.

POUR: 37		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				

Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.J. Rondel (H)				

11. Draft Income Support (Special Payments) (Cold Weather Payments) (Amendment No. 2) (Jersey) Regulations 201- (P.137/2014)

The Greffier of the States (in the Chair):

We come next to Income Support (Special Payments) (Cold Weather Payments) (Amendment No. 2) Jersey Regulations, also lodged by the Minister for Social Security, and I will ask the Greffier to read the citation.

Assistant Greffier of the States designate:

Draft Income Support (Special Payments) (Cold Weather Payments) (Amendment No. 2) Jersey Regulations 201-. The States, in pursuance of Articles 8 and 18 of the Income Support (Jersey) Law 2007, have made the following Regulations.

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

The Income Support (Special Payments) (Cold Weather Payments) Jersey Regulations create payments that are made automatically to eligible households in which a member of that household satisfies the following criteria for the entirety of a given cold-weather month: either they are under the age of 3 years, they are over the age of 65, or they meet the criteria to receive personal care level 3. These Regulations support the earlier P.135/2014 by allowing families who receive income support to continue to receive the cold weather payments if the family includes a child who formerly met the qualification for the personal care level 3 of income support and instead meets the qualifications of the new Income Support (Special Payments) (Child Personal Care) Regulations, which we have just approved. They allow the Cold Weather Payments to be made in respect of adults qualifying for personal care level 3 if they share a dwelling with a separate income support household to which an accommodation component is payable. At present, the cold weather payments are only available to the owner or tenant, meaning that payments are often not available to severely ill or disabled young people who have their own claims but share a property with their

parents or other family members, who also receive income support. So basically we are taking the opportunity to correct that situation. So I maintain the Regulations in the First Reading.

The Greffier of the States (in the Chair):

Are the Principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Those in favour of adopting the principles kindly show. Any against? They are adopted. Deputy Hilton, you are once again shaking your head?

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

No thank you, Sir.

The Greffier of the States (in the Chair):

Your panel does not wish to scrutinise these Regulations. Minister, do you wish to propose Regulations 1 and 2 together?

11.2 Senator F. du H. Le Gresley:

Yes, Sir, and take any questions.

The Greffier of the States (in the Chair):

Is that seconded? **[Seconded]** Does anyone wish to speak on either of the Regulations? All those in favour of adopting the Regulations kindly show. Any against? They are adopted. Do you propose them in the Third Reading, Minister?

11.3 Senator F. du H. Le Gresley:

Yes, Sir. I would just like to conclude this trio of policy changes or law changes by thanking in particular, during my time in office, the excellent support and work of the Policy Director at Social Security and her staff. I think the Assistant Minister will agree with me that we have been fantastically supported. **[Approbation]** This will be my last policy change. The Constable of St. John is not here, but he keeps asking me when I am going to stop. This will be my last policy change and I think the Members for the support I have received. **[Approbation]** With that, I ask for the appel, thank you.

The Greffier of the States (in the Chair):

I need to ask if any other Members wish to speak in Third Reading, but, if none do, you have asked for the appel in Third Reading on the Regulations. Members are in their seats. I will ask the Greffier to open the voting.

POUR: 37		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				

Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.J. Rondel (H)				

12. Draft Amendment (No. 26) of the Standing Orders of the States of Jersey (P.139/2014)

The Greffier of the States (in the Chair):

We come now to the Draft Amendment (No. 26) of the Standing Orders of the States of Jersey lodged by the Privileges and Procedures Committee and I will ask the Greffier to read the citation of the Standing Orders.

Assistant Greffier of the States designate:

Draft Amendment (No. 26) of the Standing Orders of the States of Jersey. The States, in pursuance of Article 48 of the States of Jersey Law 2005, have made the following amendments to the Standing Orders of the States of Jersey.

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

This amendment has been brought forward after an approach to P.P.C. was made by the Jersey Overseas Aid Commission. When the States agreed in May 2012 to move to the option of open ballot for Ministers, chairmen of committees and panels, the Overseas Aid Commission was also requested to bring forward amendments to legislation to implement an open ballot for its chairman. Following the Commission's approach to P.P.C. it was agreed that the best way to achieve this objective was to insert new provisions into Standing Orders. At present there are no formal rules at all on the method of the appointment of the chairman and the States commissioners and this amendment today will, not only implement the decision on an open ballot, but will also set out clearly the procedures to follow. The appointment of the chairman will take place at the second States meeting after the elections and after the appointment of the chairman of P.P.C., P.A.C., and the Scrutiny Panels. The process for the appointment of the chairman of the Commission will follow exactly the procedures for those appointments, namely nominations from the floor of the Assembly, a speech of up to 10 minutes from the candidates followed up by 20 minutes of questioning for each candidate, followed by an open ballot or ballots until one candidate obtains a

majority of votes cast. In addition to the provisions relating to the chairman, the opportunity has also been taken in these amendments to Standing Orders to set out for the first time the procedures for the appointment of the 2 States commissioners. These appointments will be made at the third meeting after the elections and made after the appointment of the members of the other committees and panels. In bringing forward these amendments, P.P.C. was constrained by the provisions of the Jersey Overseas Aid Commission (Jersey) Law 2005, which states that the States commissioners are made on the recommendation of the chairman. As a result it was not possible in Standing Orders to allow an open nomination from the floor and nominations will be made by the chairman.

[15:00]

Members nevertheless will be able to reject the chairman's nominations and, if the nominee is rejected, the chairman will need to nominate an alternative candidate. If adopted today, these amendments will come into force in 7 days' time and therefore be in place for the appointments to be made after the election. Thank you, and I propose the amendments to Standing Orders.

The Greffier of the States (in the Chair):

The amendments are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the amendments? Senator Routier.

12.1.1 Senator P.F. Routier:

Very briefly. I am very grateful to the Privileges and Procedures Committee for considering this on our behalf and it is putting in place what was required from the previous States decision and I wish whoever is going to be elected chairman and commissioners, on behalf of the States, good luck in the future.

The Greffier of the States (in the Chair):

Does any other Member wish to speak? Do you wish to reply, Chairman?

12.1.2 Deputy J.M. Maçon:

Simply to thank the Senator for his comments and I maintain the changes, Sir.

The Greffier of the States (in the Chair):

All those in favour of adopting the amendments to Standing Orders kindly show. Any against? They are adopted.

13. Social Security Tribunal: re-appointment of members (P.145/2014)

The Greffier of the States (in the Chair):

We now come finally to the Social Security Tribunal: re-appointment of members, and I will ask the Greffier to read the proposition.

Assistant Greffier of the States designate:

The States are asked to decide whether they are of the opinion to reappoint the following persons as members of the Social Security Tribunal in pursuance of Article 33A of the Social Security (Jersey) Law 1974, further to a process overseen by the Jersey Appointments Commission, for a further 5-year period: Mr. Stewart Hill, panel member; Mrs. Judith Querée, panel member; Mr. Geoff Esnouf, panel member.

The Greffier of the States (in the Chair):

Minister, not quite your swansong before.

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

This is procedural and slightly different from policy, and I would also like to thank the Assistant Greffier for reading it out before, because I had lost my papers, and so she gave me a bit of time to find the right papers, which I now have. So I am pleased to propose the reappointment of 3 lay members of the Social Security Tribunal. This Tribunal deals with appeals regarding the award of benefits under Social Security Law, Health Insurance Law, and they also hear matters on income support, except for the award of the impairment component, which we were talking about earlier. The tribunal panel normally consists of a legally-qualified chair or deputy chair and 2 lay people. Article 8 of the Social Security Determination of Claims and Questions (Jersey) Order provides that tribunal members are eligible for reappointment provided their total term does not exceed 10 years. Following consultation with the Appointments Commission, I recommend that Mr. Hill, Mrs. Querée, and Mr. Esnouf, be reappointed for a further term of 5 years. I would like to thank those 3 members for their services over the last 5 years and I make the proposition.

The Greffier of the States (in the Chair):

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? If not, all those in favour of adopting the proposition kindly show. Any against? The proposition is adopted.

ARRANGEMEN OF PUBLIC BUSINESS

14 Vote of No Confidence: Minister for Treasury and Resources (P.148/2014)

The Deputy Bailiff:

Deputy Le Hérissier, are you wanting to say something? Your light is on. I would normally be turning to the chairman to propose the arrangements for future business, but we have outstanding the question of P.148/2014, unless, chairman, you have had the opportunity of any further discussions or thoughts between the exchanges immediately after lunch?

14.1 Deputy J.M. Maçon:

I have had something to present so I have not had the opportunity to be able to do that. I believe the question of whether it would still be in order of Standing Orders should perhaps the States decide to convene a special sitting on the Monday in order to consider the vote of no confidence, whether that would be in order.

The Deputy Bailiff:

Perhaps if I might say to Members, there is a practical problem for Monday morning in the sense that the Assize d'Heritage has been long-fixed for Monday morning and the States Chamber is going to be full of Advocates renewing their oaths with television links into the Royal Court because there are now so many advocates who have to do that. So the arrangements could be clear in here by the afternoon, but I think it would be difficult to meet in the morning. That geography is unfortunate but that seems to be the position. My preliminary thinking on this particular matter was that the States could resolve to have a continuation day in relation to the existing list if P.148/2014 were to be added to it, P.148/2014 could only be added to the list if, first of all, the proposer agrees, and secondly if the States agreed to reduce the lodging period and, in the context of that debate, the States obviously would have to know when it was being proposed that the debate take place. Now, I am wondering, in the circumstances, whether it might not be better to adjourn for 10 minutes, so that discussions can take place between the proposer and the members of Privileges and Procedures, and the Chief Minister and the Minister for Treasury and Resources. So, I think if Members will bear with us we will adjourn for 10 minutes.

[15:06]

SHORT ADJOURNMENT

[15:18]

14.2 Vote of No Confidence: Minister for Treasury and Resources - reduce lodging period to debate at additional sitting on 16th September 2014 (P.148/2014)

The Deputy Bailiff:

Chief Minister, I understand you have a proposition, or the Deputy has a proposition?

14.2.1 Deputy G.P. Southern:

It falls to me to propose the solution we have come to. So, I propose that we reduce the lodging period of my proposition to 5 days and that we take it as an additional item on the agenda of this particular sitting with the extension day on Tuesday, 16th September, Sir.

The Deputy Bailiff:

Is that proposition seconded? [**Seconded**] Does any Member wish to speak? Deputy Baudains.

14.2.2 Deputy G.C.L. Baudains:

Unfortunately, the immediate problem with that is the 7 Members will be missing and I think my personal view is that it should be held immediately before the debate, before the Budget.

14.2.3 Deputy S. Power:

Can I say something? The Planning Applications Panel sits formally in public next Thursday. Normally we do our site visits a 2 days before. I am endeavouring to get in touch with the Director of Planning at the moment to find out where we are, but I have not received an answer right now. It means changing officer appointments, it means changing rotas, schedules and all sorts of things, and at the moment I cannot.

The Deputy Bailiff:

It is not entirely convenient for Presiding Officers either. Deputy Le Fondré.

14.2.4 Deputy J.A.N. Le Fondré:

I was just curious to know what is the situation given that it is not a diarised States day for Members who cannot make it but are still on-Island, bearing in mind it is nomination day, nomination night obviously for the Senatorials, and the following day for the Deputies and the Constables, Sir.

14.2.5 Deputy R.G. Le Hérissier:

I was going to suggest that after that Jurat selection that it be Wednesday simply because of this planning problem with 7 Members.

14.2.6 Deputy E.J. Noel:

It is precisely the fact that it is nomination night on Tuesday night for Senators that this has to be debated before then. [**Approbation**]

14.2.7 Senator P.F.C. Ozouf:

Perhaps it can be to the benefit for Senator Ferguson I think if the Minister for Treasury and Resources was to lose a vote of no confidence, I think I would consider whether or not I would be a candidate in the Senatorial election frankly, Sir. I think it is only fair for me to understand whether or not I have the support of the Assembly or not, so that is why, to Senator Ferguson, I think this matter has to be dealt with. [**Approbation**]

14.2.8 Deputy J.H. Young:

What troubles me when we are having a debate on a proposition based on political arguments is that it is inevitable, when one reads the proposition, that we are going to have a debate about a discussion related to the Budget. We are only going to be told, we are going to get a very big substantial Scrutiny report yet a matter of only a few days before, so I have real problems. I put the other side of the coin, as an ordinary Back-Bench Member, and I think it really is not going to give us a chance to properly get into the issues properly if we have the date in the way it has been proposed.

14.2.9 Deputy A.K.F. Green:

It seems to me, if we have problems on the Monday and Tuesday because of prior appointments that we should do something slightly unusual and meet late afternoon and go into the evening if need be on the Monday.

14.2.10 The Deputy of St. Ouen:

Just a general comment, I think it will be absolutely wrong for Members to try and second-guess the outcome of a Scrutiny report that is yet to be published and rely upon that to support or otherwise any vote of no confidence in the Minister for Treasury and Resources. For that reason, I think that Tuesday is perfectly appropriate in light of either matter.

14.2.11 Deputy J.A. Martin:

Yes, I just wanted to add, I think that this is a very important debate and anything, if you are on-Island or even if you have a large planning agenda, this House takes precedence. But also, if you push it back to the Budget, we cannot sit after the Wednesday, so how are you going to do justice to the Budget if we go ahead and have a big debate on a vote of no confidence and then the Budget within a day and a half if that at all. So, I think Tuesday, I will support Tuesday. As the proposer and the Minister say, they are ready. It is not convenient for everybody, but, if you are not ready for your Senatorial nominations by Tuesday day, you should not be standing. Thank you.

Senator P.F.C. Ozouf:

I have spoken once, Sir, but just to follow Deputy Green, just to inform Members, I realise that I cannot do Monday, I thought I could, but I have been invited to speak at a fairly large high-profile FinTech conference in London on Monday, so I will be outside of the Island and coming back very early on Tuesday morning to defend myself.

14.2.12 Deputy M. Tadier:

Just on a practical level, it might be helpful to know how many Members who cannot make Tuesday and, if everyone can make that day, presumably we are all in the Island anyway, I would have thought. But if Members could perhaps indicate whether they cannot make it, otherwise it seems that the consensus is to go for Tuesday.

The Deputy Bailiff:

That is a fair request. All Members who feel they are unable to attend kindly stand?

Deputy S. Power:

It is not that straightforward. Can I just say, we are suddenly having this compromise situation thrown on another department and I have to hear back from people as to whether we can do Tuesday afternoon or Wednesday morning or Wednesday afternoon, and I do not know yet.

The Deputy Bailiff:

Regrettably, Deputy, we have to make a decision today. Nothing from the Chief Minister?

14.2.13 Senator I.J. Gorst:

No, simply, as I said in our meeting, I am grateful to Deputy Southern for agreeing to such a compromise. It is extremely important that we take this matter prior to the nomination meeting and prior to the Budget. If the Deputy who is chairman of the Planning Applications Panel wishes me to speak to the department of the Minister, I am sure there is no problem in bringing those site visits forward. He is the chairman, I would have thought he would have been able to request that.

Deputy S. Power:

I do not need the help of the Chief Minister. I am trying to find a solution within the Planning Department. I think there will be a compromise, but I just have not heard back. It was 20 minutes ago this was dropped on us.

14.2.14 The Connétable of St. John:

I have concerns. We are several days away from nomination of candidates for Senator and Deputy, Connétable, *et cetera*, surely we should ask the proposer to withdraw his proposition and let the public decide at the ballot box on 15th October. **[Approbation]**

The Deputy Bailiff:

Do you wish to respond to the comments, which have been made generally, Deputy?

14.2.15 Deputy G.P. Southern:

Just briefly, to say that I agree and I expected that a motion of no confidence would have to be dispatched with before the Minister presented his Budget and that, in offering a compromise position of the Tuesday, I believe we reached fairly rapid conclusion that was possible and did what a motion of no confidence is supposed to do and clear the way.

The Deputy Bailiff:

Very well, the proposition for the States is to reduce the lodging period to 5 days to enable it to be heard at 9.30 a.m. on Tuesday next and to add P.148/2014 to the list and to make Tuesday next therefore a continuation day for this purpose. All those in favour kindly show. The appel is called for. I invite Members to return to their seats and ask the Greffier to open the voting.

POUR: 35		CONTRE: 7		ABSTAIN: 2
Senator P.F. Routier		Deputy R.C. Duhamel (S)		Connétable of Grouville
Senator P.F.C. Ozouf		Deputy of Grouville		Deputy S.S.P.A. Power (B)
Senator A. Breckon		Deputy J.A.N. Le Fondré (L)		
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator A.J.H. Maclean		Deputy G.C.L. Baudains (C)		
Senator B.I. Le Marquand		Deputy J.H. Young (B)		
Senator F. du H. Le Gresley		Deputy of St. Martin		
Senator I.J. Gorst				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				

Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

Deputy J.A.N. Le Fondré:

Sir, may I seek guidance on what is the position for Members, whether they are on official duties or whether they have just, up to this point, had commitments that were set up, are they going to be défaut or défaut excuse, Sir?

The Deputy Bailiff:

I would propose that, if I am in the Chair, which I suspect I will be, that, if there is any difficulty about it, I will mark on my own initiative such Members as défaut excuse.

Senator P.F.C. Ozouf:

For clarification, Sir, surely the convention has been that unplanned sittings, if you are out of the Island then you are excuse, if you are in the Island then surely your obligation is to attend upon this Assembly if called to do so, which we have now been called. **[Approbation]**

The Deputy Bailiff:

Senator, if I may, I entirely endorse your implied comment that for a resolution, a proposition as important as this one, Members have a duty to attend if they can, and they should.

The Deputy of St. Ouen:

Sir, could I simply ask what time we are proposing to meet on Tuesday morning?

The Deputy Bailiff:

9.30 a.m. Now, chairman, do you wish to make proposals for forthcoming business or are we going to do that on Tuesday?

Deputy J.M. Maçon:

Yes.

The Deputy Bailiff:

It has been an interesting day. Very well, the States now stand adjourned until 9.30 a.m. on Tuesday.

ADJOURNMENT

[15:29]