

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 10th MARCH 2010

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

[9:35]

PUBLIC BUSINESS – resumption

1. Compulsory Wearing of Cycle Helmets (P.4/2010) - resumption

The Deputy Bailiff:

Now the debate resumes on P.4, the proposition of Deputy Green on compulsory wearing of cycle helmets. Does any other Member wish to speak? Senator Ferguson.

1.1 Senator S.C. Ferguson:

I was delighted during the debate to hear the Deputy of St. Mary espousing the concept of hard evidence. I do sometimes wish he would apply the same rigour to all his areas of interest. But on the other hand I do find myself in the strange position of agreeing with both the Deputy of St. Mary and Deputy Southern, which must be a red letter day. **[Laughter]** In response to that comment I have a notice on my fridge at home which says: “Mummy’s always right even when she’s wrong.” I too have considered the evidence. I considered the comments by the Minister for Transport and Technical Services. If most accidents on bikes occur off-road on private land I do have a vision of using cameras on drones to police this land. I do wonder if this proposal is an extension of the nanny state. Where is the personal and parental responsibility in all this? I am also, as a number of Members are, concerned at the ability to police this law. If we still had motorbikes this would be easier but sadly, as we know, those were sold off at a knock-down price. You cannot chase a cyclist in a car and there are a few, with the greatest respect, policemen fit enough to chase and catch a cyclist. Certainly a law which cannot be applied falls into disrepute and makes a mockery of the system. If a law cannot be enforced or is enforced lightly no one will take any notice of it. I do appreciate the efforts made by Deputy Green to bring this proposition but there is no substitute for parental enforcement. Let the police deal with real crime. I do think that Deputy Green maligned those opposing this proposition. The opposition is returning responsibility back to parents where it should be, not with the nanny state. Speaking as a former Centenier I can assure Members that enforcement will be a nightmare for the authorities. If a bike is going past you at a high rate of knots there are very few ways for somebody on foot to stop it. In line with the comments made by the Deputy of St. John, how long before we extend the principle to hockey players, water skiers, rugby players, motor mowers and perhaps even the Greffier. **[Laughter]** I think the most useful document is appendix 5 in the addendum to the amendment, page 43. Safer routes to schools: where the schools work with the parents, and I quote: “So that safety equipment as appropriate is used.” Then there is just one small point, if we keep spelling out how dangerous cycling is it will frighten people away from cycling. I am sorry, I really cannot agree to this in isolation. I would prefer to wait for the general review which is being done by Transport and Technical Services and I cannot just support one item in road safety on its own and I shall not be supporting the proposition.

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

The proposer has been accused of bias in presenting the information to support his arguments. Well, I believe that both sides indeed have shown bias, if not spin in some cases, and I would expect nothing less. That is what we do when we present our points in debate; we give our views based on evidence as we interpret it. Much has been said about education and not legislation. I say legislation is a form of education. That was the role of introducing seat belt laws, helmet laws for motorbikes and so on. In these instances the initial role of the legislation is that of aiding the education function. Like the good Deputy of St. John, I too have been fortunate enough to have just returned from a family skiing holiday and I am glad to say in the French resort I was staying in children of all ages had to wear helmets or they were not allowed on the slopes. If I may say so, the French are not known for their over-the-top health and safety culture. Did that mean that there

were less people skiing? Unfortunately not. Did that mean that the children enjoyed themselves less? No, they did not. Did it mean that they were significantly safer? Definitely. Legislation is a start, the start of the changing culture and behaviour. It is one, just one, of the tools available to ensure that over time more people protect themselves and their families and in doing so protect society as a whole. I advised Deputy Green prior to the debate that I would, as a responsible parent, be supporting part A of his proposition. However, this debate has made me move away from the populist vote attracting stance of rejecting part (b) to do the right thing and support both part (a) and part (b) and I respectfully request others to do the same.

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

Can I just ask if the Deputy could clarify something? In the French resort that he was at, was there French legislation to say that they had to wear the ski helmets?

Deputy E.J. Noel:

It was a regulation of the resort.

Deputy T.A. Vallois:

So it was legislation then.

1.1.3 Connétable S.A. Yates of St. Martin:

I look at this with interest. It seems to be coming down to the nanny state versus the nurturing of children and I can see a lot in this to be supported but I am not comfortable with other parts. I believe that we should nurture children and I believe also that we should allow adults to make their own choices. I am not really comfortable with the 18 year-olds, because I believe 18 year-old young adults are at the stage when they have already got the vote, they have already got the age of consent. They are young adults. I believe that children should be nurtured and protected and I believe that the introduction of legislation for the wearing of cycle helmets up to the age of 16 ... when they are 16 they can apply for their moped licence so having worn a cycle helmet up to the age of 16 they would naturally wear a helmet when they get their moped licence. It seems very natural that this follows on from wearing a cycle helmet when you are child to wearing a moped helmet when you are 16 plus would follow on naturally. I believe that legislation to insist that children wear cycle helmets would also give the parents an added reason to insist their children wear cycle helmets. I believe that I will support part (a) for children but not part (b).

[9:45]

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

This debate has already been had in this Chamber. The vote went 11 for, 2 abstained and 3 against. I have to declare an interest in the participants in this debate; it was year 5 at St. George's School who debated this on Monday morning in this Chamber. So if you ask the people who are affected by it, they are 11 for it, 3 against. Children respect the fact that we are looking after their best interests and I believe that Deputy Green's proposition underwrites that we are protecting the children's best interests. We have heard much about freedom of choice, the 3 words used "freedom of choice". There is such a thing as selfish freedom of choice. The freedom to choose what I want to do irrespective of the impact on other people, on my family and friends and the society around me. Equally there could be freedom of choice if you choose not to wear a cycle helmet then I choose not to support you when you suffer massive brain injuries or other injuries. That equally is freedom of choice. I believe that there is enough evidence out there that one should look at the precautionary principle. Deputy Higgins yesterday was talking much about the litter caused by a part falling off an aircraft. He was concerned about the fact that nothing was done to mitigate the damage to other aircraft. He was talking about the precautionary principle and I believe this proposition is a precautionary principle. Therefore, I shall be supporting the proposition.

1.1.5 Deputy S. Power of St. Brelade:

Starting on a slightly personal note, I never wore a bicycle helmet until the beginning of last year and I never really thought about the dangers that would affect me or my head cycling from here Royal Square to Les Quennevais and that. I never gave it a thought. However, last year I decided ... I bought my grandson a bicycle and I decided to teach him, and I decided if I was going to teach him I was going to teach him with a helmet. So in order to start him in best practice I decided to wear a helmet and I have to confess that in the year that I have worn a helmet, like the Constable of St. Helier, I feel slightly naked without that helmet now and I do feel wrong. However, I would make this point, and it is really a view of common sense, in that extremely bitter cold snap that we had in January both my grandson and I elected to wear woolly hats rather than helmets on the railway walk, but we were not on a public road we were on the railway walk and we both agreed a woolly hat was better than the helmet on that particular occasion. So I wear a helmet 99 per cent of the time but I do not want to be forced to wear a helmet 100 per cent of the time. I asked Deputy Green in his summing up, and I have had a brief conversation with him this morning, if he would summarise the status of head injury accidents on bicycles in Jersey as to whether they are on-road or off-road and whether they are sport or leisure or whatever, and if he could make a comment in relation to Headway U.K. (United Kingdom) I would appreciate that as well. Accidents do not happen, accidents are caused. It is caused by men and women and children who make an error of judgment and they end up receiving an injury. Now, we all try to avoid accidents but sometimes they just happen, we get our judgment wrong, whether it is on a bicycle, whether it is on a boat, whether it is on a rugby field or whatever and it happens. Deputy Green has told a very personal story and the accident that his family suffered has changed his life and the course of his family's life altogether for ever. We all can relate personal experiences of errors of judgment or mistakes or accidents. I had a first cousin called Peter who was walking home from school one day, missed his step on a pavement, was hit by a car and ended up with a brain injury. He survived in a semi-comatose state for 8 years and died at the age of 17. So he was hit by car. I myself have seen many accidents on bikes and in other situations I have seen accidents. I have had my fair share myself. One as recently as just over a year ago when I broke my leg, and I still have accidents. But Deputy Green follows the path given by - you will know this story - a redoubtable woman in New Zealand called Rebecca Oaten. Rebecca Oaten single-handedly brought in the New Zealand campaign for compulsory bicycle helmets in the late 1980s and the early 1990s, and the reason for that was that her son ended up with a permanent brain injury after a vehicle knocked him off his bike in the late 1980s. Single-handedly she became known in New Zealand as the Bicycle Helmet Lady and she changed New Zealand law. The jury is still out in New Zealand and in Australia and in other countries, and I am not going to deluge you with empirical evidence as to what that data is but I can summarise it by saying that immediately in New Zealand and Australia after the introduction of cycle helmets there was a reduction in cycling. There was also a reduction in accidents. The information that I have been able to study over the last day or 2, and perhaps the Deputy of St. Mary has better information, is that it is very difficult to work out whether the reduction in accidents was due to a reduction in bicycle use or whatever. But it is certainly not clear from the New Zealand or the Australia experience as to what happened. We are dealing here with a report and proposition to compulsorily insist that bicycle owners and cyclists wear a crash helmet. It is a helmet; it is a crash helmet to deal in the event of an accident. Yet, as the Deputy of St. Mary has pointed out, and many other speakers, head protection applies to many sports and I do not intend to duplicate that. I have myself been smacked and bashed a couple of times by a swinging boom on a jib when I did not duck fast enough and I got clobbered. That bump on my forehead is from one when I was 18. We have heard about rugby matches, and indeed if you come out of this Chamber and go up Hill Street on a summer's afternoon you will see young lads without helmets dicing with lines of traffic coming down Hill Street, without a helmet in sight. In Ireland we have the phrase, the clash of the ash. It refers to the game of hurling, which is a Gaelic game, using an ash hurling stick and a leather ball called a sliotar. That ball travels at between 130 and 150 miles an hour yet head protection in the game of hurling is not compulsory. Many a time that ash has missed the ash

and the ash has hit the skull, and I have seen many serious injuries, yet the wearing of helmet is elective. So we have many sports, many activities where the use of a crash helmet for whatever reason is not compulsory. There are many other views on this debate. I have not done the research that the Deputy of St. Mary has or Deputy Green has done but my view is that cycling is beneficial to health. If one were to generalise - and all generalisations are dangerous - cycling is beneficial to health. Ordinary cycling, which is ordinary commuting cycling and ordinary cycling in Jersey such as the Railway Walk, the Waterfront, St. Aubin to St. Helier and whatever, is not demonstrably more dangerous. Indeed if you look at cycling statistics and you compare ordinary cycling, it is not more dangerous than walking or driving and yet I think the death rate on pedestrians being killed in traffic is far higher than cyclists being killed, and the death rate of motorcyclists being killed is far higher than cyclists. So we have to keep this in perspective. My view is that those of us that use bicycles for commuting, it is not a dangerous activity. We have to keep it in perspective. There is a view out there that people are painting this as a dangerous activity and that we need to wear crash protection but for many, many people who commute into St. Helier from outlying Parishes, they wear their work clothes, they do not wear lycra, they do not dress like that and they use their bicycle as a simple means of transport. We must realise that in Jersey, which is a small island of 100,000 people, bicycles, pedestrians and cars are part of the traffic network. It is wrong to say that the motor car or the pick-up truck or the delivery van or the public transport bus is traffic. Cyclists are traffic, motorcyclists are traffic and pedestrians are part of the overall patchwork quilt of the commute into St. Helier, and we have got to keep that in perspective. There is other evidence out there that suggests that if people in commuter areas recognise the cyclist as traffic then accident rates drop. There is quite specific evidence of that in some of our other European countries. I think it is in Amsterdam and Paris there was a study of cycling taken and it compared Boston, Massachusetts to Paris and Amsterdam. Boston had the highest rate of helmet wearing but Amsterdam had the lowest rate of helmet wearing, yet in Amsterdam there were far more cyclists cycling to work than there were in Boston and there were far less accidents because the motorcar and the cyclist intertwined quite happily. There are recent experiments in Holland whereby the City fathers have taken away all stop lights, traffic lights, right of way signs, yield right of way signs, and the bicycle and the car commute quickly happily. In actual fact the traffic goes quicker, and that is without any compulsory head protection in Holland. There is a lobby that says that cycling is dangerous and that we need to have head protection. Unfortunately from my view my enjoyment of cycling is that it is low risk and that enjoyment of that hobby, that commuting medium is now threatened across the world by politicians, by bureaucrats, safety lobbyists who are basically saying that I am risking my life, and for me, and those of us that do cycle in, it is a free choice. As far as I am concerned the jury is out on how we bring this forward. There is also other evidence about accidents that happen because of the inappropriate use of a cycle helmet. There are many documented accidents where children wear helmets, do not take them off, start playing and end up dying. Now, that is a very small number of statistics but there are 3 or 4 that I found without too much trouble and I will read 2 examples. This is in the Adelaide Advertiser in 2006: "A 3 year-old boy died this afternoon after being strangled by the strap of his bicycle helmet. It is believed the boy tried to climb through the window of his locked house wearing the helmet and became wedged between the home and the window." Another one from the Victoria Institute of Forensic Medicine 2006: "The deceased had previously been riding his bike and was found by his mother hanging by the strap of his helmet that was jammed between the wall and the top of his bunk bed." Finally, a third one: "A 6 year-old Tasmanian boy in July 2009 accidentally hanged himself after getting entangled in a clothes lines while jumping on a backyard trampoline." So, accidents happen unfortunately, they really do. We cannot legislate out how humans behave. I did stupid things when I was a kid like falling out of trees and I managed to fall down a waterfall one time, bounced my way down and cycled 12 miles home and got berated by my parents. So the argument that I have is we are dealing today with a report and proposition which will bring in compulsory cycle helmets but we are proposing to not take it seriously, we are proposing to have a soft touch. We are proposing to bring in a law that we are not really minded to enforce. My view

is why on earth would this Assembly bring in a piece of legislation that it does not take seriously? At the moment - and we all know this because we all work in this building quite often - there are cyclists who race through the Royal Square, day in day out, morning in morning out, evening in evening out, with absolute immunity. They cycle up King Street, they cycle down Queen Street and the States of Jersey Police have too much to do and they are not bothered about it. As the Deputy of St. John said yesterday, and I have seen it early in the morning, you have many, many cyclists who cycle in the dark with no lights on a main road or a country road or they cross over and it is silly. So we have, by and large, a majority of cyclists with or without helmets who behave themselves but we have minority on this Island who do not behave themselves and if we are going to bring in a law on cycle helmets, and we cannot deal with cycling delinquency as it stands then God help us all. That is all I say. I heard Senator Ozouf say yesterday that we would set a shining light and a great example across the British Isles for bringing in this piece of legislation. That is fine, Senator, as long as you tell them that we do not really intend to enforce this and that we have a delinquent bunch of cyclists here at the moment that we are not really bothered about. I do not think that sends out a very good message.

[10:00]

If we introduce this report and proposition I know and we know that it is going to be very low on the radar of the Minister for Home Affairs. He is a very busy man, he has got far more important pieces of legislation to bring through and it will take some time to bring through. We know that the States of Jersey Police have got so many other things to do that the cyclist is way down on the radar. So we are faced with a situation that this Chamber is today deciding to accept or reject Deputy Green's proposition. It is one of those propositions that is nice to have. It really is nice to have. It will protect some lives, I think but it is nice to have. We are not going to enforce it. I think the vast majority of children, young adults, teenagers, parents and everyone else would be far better approached by dealing with this from an educational point of view. I do not think bringing in a mandatory compulsory thing to wear cycle helmets is going to work. I mentioned this briefly before the Bailiff cut me short yesterday. I can hear across hundreds of kitchens in the morning: "Mummy, where is my helmet?" and Mummy will say: "Well, where did you leave it?" "I left it maybe in Dad's car, maybe at the youth club, maybe at school." "Well, if you have not got your helmet you cannot cycle to school." That is simply what is going to happen. I believe that if we introduce this report and proposition we will initially reduce the active number of cyclists on our roads. For that reason, I will not be party to this. I think Deputy Green's motives are absolutely exemplary, so do I think that the Deputy of St. Mary's motives are exemplary. This is a very difficult proposition as the Minister for Health and Social Security said yesterday but let us not go half-measures. As an offset half-measures avail of us of nothing.

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

Members do not need telling this is an important debate and I just want to frame it in terms of do we go the positive way or do we go what is effectively the negative way? Another issue is good governance based on evidence. A further issue is cost which the Minister for Treasury and Resources interestingly failed to mention. Also the issue of the nanny state versus nurturing, which has been mentioned by several people. I just want to pick up a few individual points and then tackle major issues. I will also be mentioning Australia. Members also have a document on their desks and I will come to that in the middle of my speech. So just quickly some of the points people have made. Laws were right for bull bars and mobile phones, tobacco and environmental protection therefore this law is correct. I am sorry there is no logic in the statement that because we have passed laws before that were correct that this law is therefore a good idea. It is simply completely illogical and I hope Members can see that because it is an argument for passing any law whatsoever. The second point I want to make is about the nanny state and I must say I now know, having heard the speech of my neighbour Deputy Martin, what the nanny state phrase means. It

means that I have got an argument with my child about whether they should go out with a helmet or not and, by God, I need a law from those people in the big house to help me sort out my child. There is an interesting parallel, perhaps if our children refuse to go to the dentist because it might be painful; maybe we should put through a law to help our parents do the right thing in sending their children to the dentist by making it a legal requirement. It sounds like a trivial point but it is not, it is about responsibility and that was mentioned by Senator Ferguson. Personal responsibility. When we encourage people for instance to tackle their weight or when we encourage them to quit smoking - which we do - we do that on the health service; there is a partnership. The best practice is to do it as a partnership and involve the person in making that decision and then sticking to it and then supporting them. It is not tell; it is work with. That is how you build personal responsibility. That is how you get the result of freedom from alcohol or tobacco or whatever it is. I just had the annual report of the Silkworth Lodge with a fantastically high success rate bringing people off alcohol addiction. They do that by working with. Deputy Fox, going to tell the families in London of the tragic event of a member of their family being killed and he went on to say about not being an individual but about being a society issue. I thought: "Ah, he is going to tell us about H.G.V.s (Heavy Goods Vehicles) and the dangers in London of them turning left and killing cyclists." I thought he was going to talk about safer facilities but, no, he ended up with a conclusion that somehow helmets would have helped him having to go to tell less families. That is not the conclusion of Transport for London. They have just issued a big report on safety in London. I will give way if the Deputy wants to correct me. I may have misheard him.

Deputy J.B. Fox of St. Helier:

You did. I was not referring to London. All my experience is locally here in Jersey.

The Deputy of St. Mary:

I beg your pardon. Well, that still leaves me with the point to make about London because I will make it regardless. Although I am surprised that in that case Deputy Fox cannot have been talking about cycling fatalities because there are very, very few. I know of one in the last 10 years, correct me if I am wrong, and that was a man who was killed by a Porsche going at 57 miles an hour.

The Deputy Bailiff:

If I may say so, Deputy, there are an awful lot of things that Deputy Fox did not talk about and it would be helpful just if you could concentrate on your speech.

The Deputy of St. Mary:

Thank you for that direction, Sir. Yes, Transport for London have just issued a report on safety for cyclists. It is a lengthy report, it contains policy, it contains analysis and it does not contain the word "helmet". It does not contain the word "helmet" because if you are looking at killed and seriously injured on the roads of London, or in Jersey, you do not look to helmets to pull you out of the fire, you look to positive measures. Senator Routier mentioned the family where the children are wearing helmets, the parents are not because we have only chosen to support (a) and not (b) in the proposition and how dreadful that would be if the father fell and cracked his head. There are 2 points to make about this. The first is that if it was that serious an accident it is most likely that the helmet would not have saved him, according to the evidence, and the second point is that in the presence of helmet legislation it is quite likely that the father will be one of the 30 per cent, it is 30 per cent likely that he will have stopped cycling and it is then more likely that he will die of colon cancer, stroke, cardiovascular disease or whatever disease of inactivity he chooses or rather chooses him. People are gasping and saying this is sensational but it is not. It is not. There is ample health evidence of the protective effects of cycling on health. Ample evidence. It is additional protection, it is not just cycling, it is on top of other activities. If you control for those cycling still confers a big health benefit. I will not go into more statistics but that is the fact. I will quote one study which was that ... and it was a study done, interestingly enough, for the Council of

Ministers but not our Council of Ministers, the Nordic Council of Ministers by Rutter and you can look it up later if you want. It is a footnote to the Wardlaw appendix 1. If a population of 100,000 took up cycling you would have a net reduction in deaths of 50 within a year. I think that puts in perspective what Senator Routier told us, it puts in perspective the remarks about massive brain injury, it puts in perspective the one young life that we might lose if we do not legislate now and bring this law in now. If we go down the route of compulsion we will lose cyclists and we will have an increase of these premature deaths. So all this talk, this sensational talk about losing possibly a young life tomorrow is simply against the evidence. I repeat that in Hull, when speed limits were brought in across the board of 20 miles an hour, killed and seriously injured went down 90 per cent. If we are serious about reducing injury, head injury, death, then that is the way to go. Speed limits and the other killer of course we know is drink. Members will not need reminding of the 3 ladies standing outside the Mayfair Hotel who were mown down by a woman going home absolutely stoned out of her head with alcohol. That is where the emphasis must be. Finally on the little points, the magistrate - our former magistrate - said that he was very sceptical of the decline of cycling after legislation as an argument. It is not an argument, it is a scientific paper by Robinson - in fact a whole series of scientific papers - who is a statistician and is interested in how things really work. Her papers are not arguments, they are evidence. If you want to contest the evidence go and count the cyclists not going across the bridge into Perth in the morning. How, as a magistrate, he cannot distinguish argument and evidence ... I find that difficult. Maybe he is having a blind spot with respect to this one issue. Once upon a time ... I now get to say something rather nicer, which is once upon a time I taught a couple of young lads to ride a bike, one after the other, because I myself learnt very late and I knew how to do it without hurting their little knees and without hurting their little heads. It was a joy when I finally, after 2 days ... he was a very slow learner because his balance just was not there. After a couple of hours, 2 sessions, he finally got it. Click, he got it. He rode up the road next to my house with his dad waiting at the top of the hill, straight up the middle because there was an asphalt line where a trench had been dug and I said: "Go up the line" just to start training him to going straight. He went up the hill to his dad and they had a big hug. He was now free. He had overcome the milestone of learning to ride. We all know what toddlers are like with their learning to walk, it is such a thrill. They want to do it, they want that experience of doing what the others are doing and standing on their 2 legs and walking. He had the same thrill going up that hill into the arms of his dad. We want more children to cycle. So do the children, they all love cycling, the evidence shows that. What we have here is an emphasis on the danger and people have mentioned this. Deputy Power mentioned it. I had a call saying ... and the man used a very interesting phrase, he said: "Cycling is not desperately dangerous." That is exactly right. Cycling, walking, car use are equally dangerous and if we are concerned, as the Constable of St. Peter said he was about one horrific injury, then we put helmets on everybody because it is all equally dangerous. The only safe thing to do is to stay in bed and then you get killed by inactivity. **[Laughter]** So there is no way out. This sends a clear message, this constant banging on about helmets, and I am afraid that the P.R. (public relations), which was splendid by Headway, has contributed - splendid in the sense that it was effective - to this atmosphere of fear around cycling. Cycling is a safe activity, as safe as any other normal activity. Skiing is not a normal activity, it is a lot more dangerous and there are different arguments to have about that. We are talking about cycling; we are not talking about skiing. Somebody mentioned yesterday that Sustrans mention cycle helmets. That is absolutely true, they mention it as the thirteenth bullet point in their protocol school cycling policy, and what they say is: "Consider seriously, wearing a cycle helmet." Consider seriously, wearing a cycle helmet. Once you know how to cycle, once you have been trained, once you have had the encouragement of your school and so on. Sustrans have been rightly praised in this Chamber for the work they do in schools. They did us a wonderful Jersey Cycling Network as well. They are not in favour of compulsion. They are in favour of more children cycling, and they do a fantastic job.

[10:15]

You will remember that in Wales where they did one of their numerous biking projects across the country they raised children cycling to school in one year by a factor of 3. Members will recall the written answer to Deputy Green - written question 8 today - where you see exactly the opposite happening in Jersey as child cycling goes down. We get nothing but this fear, fear, fear. We have A. and E. (Accident and Emergency) doctors who are not with us today making statements about injury and death which just do not apply. We have this House talking for hours about cycle helmets instead of about road safety. We have irresponsible P.R. in the media by Headway. None of it is borne out by the facts. The stuff that has been sent to us by the A. and E. doctors and the F.N.H.C. (Family Nursing and Home Care) had no facts in them at all about Jersey's relative risk or about the actual numbers, or about the severity. The correct solution for children and schools is ... well, for children, is parents guiding, modelling and teaching, as I and my wife did with my children, as the person who rang me said he did with his children, the children between the parents, teach them about road positioning, teach them about avoiding the gutter, teaching them about how to signal and so on, and about other road users and how you interact. Training for cyclists at all ages, as in Sheffield where there is a one-on-one service. You pick up the phone, somebody goes to your house, they teach you about possible routes, they deal with your anxieties, they show you how the bike works and they will even bolt you on to the guided rides that are organised every week at different levels. Why does Sheffield do this? Sheffield does this because there is a massive health benefit, a congestion benefit and every other benefit. They do not need to obviously provide so much parking and so on. That is why Sheffield does it. Group rides, route awareness schools, I have covered that. Helmets: within their policy they do have a policy on helmets and it is that helmet wearing is incidental to the main job of getting more cyclists on the road. Our job is to promote cycling and make it safer. Right, I come now to the strange aspect: helmets are magic. It will make you safer. That is the message we are sending out to our children when the cop comes to the door and says, if we pass this: "You have got to wear a helmet, Sonny" or to the parents. The implicit message is cycle helmets make you safer. I do not know how true that statement is, I really do not. What does make you safer is safer road conditions. Nothing can save you from the lorry that hits you or the van that comes and hits you from behind in Bath Street, as another caller told me about. Nothing can help you there. It will give you some protection if you have an accident maybe. Because the benefits of cycle helmet wearing are, of course, overstated to make the case. We had Deputy Le Claire yesterday saying that he saw these 2 children, one was wearing a helmet so they were safe, and the other was not wearing a helmet so they were not. It is nonsense. They are both, if they hit a lorry, either dead or in hospital with serious injuries. So we are misleading our children and betraying them and the public. What is correct, as I pointed out, is help and support for parents and children. The correct approach is as the Jersey Child Action Prevention Service say on their website: "Not to wrap children in cotton wool." There is very good reasons for that. Help them climb that tree, help them cycle to school, guide them, encourage them but in the end they will do it on their own and they will learn to assess risk and they will learn to cope with the environment. My mum in St. Mary knew better, she knew that the danger was the environmental conditions not the safety factor of the helmet. I would refer Members to the 2 cases in Deputy Green's appendix. There was one of the man who went around the little sort of shelter thing at Bel Royal too fast and hit a cyclist coming on. I have known for years as a cycle tour guide that that is a blind bend and dangerous. I have always led my groups to one side, right outside the tramlines, in order that they do not hit anything coming because I assess the risk, I know. He who is also a regular cyclist on that track failed to assess the risk. He failed to be aware of his environment. Maybe if he had had a little bit more exposure to managing risk in his childhood maybe it would have been different. I just would point out to Members that it is a lot more complicated than those examples show. The other example is a lad riding around a corner in Trinity and ending up under a trailer. I have never done that. I have ridden down hundreds of lanes in Trinity in my time as a cycle tour guide and on my own but I do not go around corners so fast that I cannot stop when something is there. Maybe he should even have looked because you can see over the hedges if you are on a bike. But there you go. I think there are points there to be

borne in mind. That it is not just about wearing a helmet; it does not make you safe. What makes you safe is your own attitude and your own skills which are imparted to you by training or by your parents or by support of some kind. I now refer Members to this document which I put around today about Australia. I think it would be helpful if you follow along in your text, as one of my lecturers said at university: "You follow along", because he was American. Additional information for cycle hire debate. This is about the claim of Deputy Green yesterday that cycling rates had not gone down in Australia as a result of legislation. That is what we were told. We were told that cycling had not gone down. If you look at the bottom of the first page, so if you just turn over the cover page, which is headed "Welcome to Australia, the World's First and Fattest Nation". If you go to paragraph 6 on that page: "As reported in March 2007 and based on data from Western Australia, Queensland and Victoria, the number of Australian children walking or riding a bicycle to school has gone from 80 per cent in 1977 to the current level of 5 per cent." It has gone from 80 per cent to 5 per cent and what happened in between 1977 and now, cycle helmet compulsion. I can see that someone is saying it may not be the only cause but the fact is that there has been a massive decline and we were told that there has not been. The last paragraph shows that the numbers cycling or walking to work in Western Australia has fallen from 6.4 per cent 4 years after cycle helmet compulsion to 3.8 per cent in 2006. So the cycling to work rate has declined. If you got to the next page, increased cycling rates as implied by Deputy Green or increasing population, you will see that even if cycling has gone up - well, it has slightly gone up in Western Australia - the population has increased - the population of Perth, the capital where most Western Australians live - by 44 per cent. So these increases in cycling were caused by population increase. But we were not told that yesterday, were we? We were not giving the confounding factors. It was not explained at all. We were given the implication that that most important point in this debate, which is that helmet compulsion brings down cycling rates, was untrue. In fact we were given distortions of the truth by the proposer I am afraid. If you turn over to the next page we see: "9 million overweight makes us the world's fattest. Australia has become the fattest nation in the world."

The Deputy Bailiff:

Deputy, I am sorry, I think that phrase "distortions of the truth" is not an appropriate language to use.

The Deputy of St. Mary:

Yes, Sir. What we were told yesterday was, in my view, misleading. We see there that Australia is now the world's fattest nation. There are qualifications about whether B.M.I. (Body Mass Index) should be adjusted a little bit, which is nice because then they will have a few million less overweight people and obese people. But the fact is that that is the case. They were the first to bring in helmet compulsion and they are now the fattest nation in the world. Well, there is a connection and it is ... I am sorry, there is a graph which I did not put in my addendum where there is a negative correlation between obesity and cycling rates. The next thing I copied was the International Diabetes Institute and if you go to the eighth paragraph Professor Zimmer warned that unless public health officials at a federal and state level heeded the results of the survey the costs of diabetes and its associated complications such as kidney disease ... kidney disease, where have I heard that before? We talk about the renal unit quite a lot in the Chamber. Complications of diabetes such as kidney disease, heart disease and strokes would swamp future health budgets and resources. Then Professor Tim Welborn, another professor, talked about the rates of the deadly quartet diabetes, high cholesterol, obesity and hypertension were almost without precedent worldwide apart from United States of America. So the 2 countries with the greatest health problems due to inactivity are the 2 countries which have played most, apart from New Zealand, with helmet compulsion. I am surprised at the Minister for Treasury and Resources ignoring the implications of this on our budgets as a country. It is quite extraordinary that the guy who I thought was on top of the finances of this Island and going with his torch and being really tight on expenditure and financial controls has not seemingly read the T.T.S. report, because we are looking

at extremely serious increases in our health costs and looking at it through the other end of the telescope if we were to double cycling it has been calculated that we would have a great economic benefit. So on the one hand if you increase cycling you have more healthy people, you have huge net benefits to the economy, on the other hand we will lose a lot of money, let alone health. The public will remember this. They will remember if we do support this proposition that we have effectively written a blank cheque for the Minister for Health and Social Services. It will deter riding. There is evidence of 2 countries which both have very high cycling rates, Denmark and the Netherlands, and Denmark has started to promote helmets with the immediate result, just promoting helmets officially, that cycling is falling in Denmark. Do we really want to do this? Do we want to basically single-out a minority and load on to them the road safety issue, avoiding all the other issues that are more important. Jersey is a wonderful place to cycle. This is for the special benefit of the Minister for Economic Development; Jersey is a wonderful place to cycle. That is what we portray to our markets. The logic behind the Jersey Cycle Network was to do just that, to promote Jersey for the tourists. As a guide, I have taken many German journalists, many Dutch travel agents, many Belgian travel agents and French journalists around Jersey's lanes. Imagine that the first thing I say before the ride is: "Can you now put on your helmets? Can you go and get some helmets? Did Jersey Tourism provide you with some helmets? Okay, right, so put on your helmets." They look at me blankly and they say: "Why?" I say: "Well, because it is so dangerous. No, well because it is not dangerous and it is not safe so it is just the Government told you put on the helmets." Then they go: "Huh, oh well, all right, if the Government says we must put on helmets we will put on helmets." Then they go around and have a wonderful tour because that is what they have when I am the guide. **[Laughter]** Then at the end of it they take them off and give them back to me and I somehow get them all back to Jersey Tourism. Then they go home and write their articles and what do they put? They are honour bound to put: "I had a wonderful ride and the lanes are very beautiful. By the way, you have to have a helmet in Jersey." I know from having a German wife and knowing what German attitudes are, that we will lose visitors. Some, not all. There are the brigade who go around with special tours, sitting in the bus, rather overweight, but there are also the active contingent, which is about half the German market. We will lose some, not all.

[10:30]

Every seat on that flight is critical, because if you add up all the seats on each flight they make the route viable or not viable and then you lose the route. The new route to Berlin. It is just a step that I would not take. Then in Holland and Belgium it will be exactly the same. The travel agent gets the phone call: "Would you like to hire a bike?" "Yes." "By the way, I have to tell you a cycle helmet is compulsory in Jersey." "Oh, well I will think about it, thank you." Once again you have lost a small percentage of those who will not go to a destination where they cannot feel the sun and the wind and just be closer to nature than a helmet allows you to. For some people it is very important. Now, the further implications of what I just said are quite interesting. Deputy Green portrays anti-helmets as some kind of little teeny tiny minority of fanatics. Also we have heard yesterday that it is commonsense to wear a helmet. But by implication it is not commonsense not to wear a helmet. Well, folks, that means that everyone in Holland, most Germans, a vast majority of Belgians, most French people are all lacking in commonsense. It is not a minority, it is not some fiddly little clique, it is most people in the world, certainly in Europe, think that safety lies, as the Deputy eloquently pointed out, in sorting out the traffic, investing in the facilities and having a culture of plenty of cyclists about. Of course, there are the many large organisations like the National Strategy Board for Cycling and R.o.S.P.A. (Royal Society for the Prevention of Accidents) who are not in favour of compulsion. I have a document from W.H.O. (World Health Organisation): "Collaboration between the Health and Transport Sectors in Promoting Physical Activity", in promoting physical activity. Examples from European countries, and it is a like a manual of best practice and the word "helmet" does not appear in this W.H.O. Europe document.

But what does appear in the foreword is the following and this is the way that Jersey should go. “The promotion of safe cycling and walking in urban areas is an area that presents great opportunities for win, win, win approaches to achieve goals of the transport, health and environment sectors. The improvement of safety of cyclists and pedestrians is one of the important means that is likely to encourage more people to become physically active in their daily life, reduce the number of injuries among cyclists and pedestrians as well as congestion, emissions of air pollutants and noise and increased energy efficiency and the quality of urban life. Cycling should be promoted by national and local governments and be co-ordinated with policies on transport, land use, environment, health and finance.” Environment, health and finance. But the Minister for Treasury and Resources, for some reason, in this jurisdiction does not quite get it. We have been told by one of the A. and E. doctors that prevention is better than cure. My goodness he is right. Speed, drink, we know what is important, and finally the way forward as it should be. The positive way forward. Jersey is uniquely placed to promote cycling. We are probably the jurisdiction in the world with the most potential for this safe and environmentally friendly activity. We have a low overall speed limit, we have the acceptance of an even lower limit on the lanes of 15, we have an unparalleled network of lanes where there is hardly any traffic at all apart from in the potato harvest and potato planting season. There is low route awareness. A lot of Jersey people simply do not know how they could cycle safely from A to B, so there is a huge potential for improving the rates. We are small, most trips are short. We could be positive about our road accident rate, which is very low as T.T.S. point out in their document. Well lower than the U.K. We are already in a good place but 400 is too many. We could aim for half in 5 years and then aim to halve it again. Why not? Let us be positive. We could adopt the Sustrans model and get 3 times more children cycling to school, here and there and then in the next Parish. We could borrow C.T.C.’s (Cyclists’ Touring Club) workplace challenge, we could borrow their champions’ project, we could improve cycling rates across the board. So let us avoid the unintended consequences of fewer cyclists, more danger per cyclist, more premature deaths. There is one unintended consequence that when cyclists become motorists then they become more dangerous. Please, please, this is not a rational move. It is going to cost an arm and a leg. It is going to damage our public health. It is not going to protect the cyclists. It is going to put each cyclist in more danger because there will be fewer of them. We have been misled in respect to the key point that cycle helmet compulsion will cut cycling in Jersey. It is already happening because of this atmosphere of fear. We see our child statistics for cycling going down when they should be going up. So, please, please, reject this proposition.

1.1.7 Connétable J. Gallichan of St. Mary:

I fully understand Deputy Green’s reasons for bringing this proposition and I also understand his emotion. I too understand through personal experience only too well the effects that a brain injury can have, and not only on the victim. Furthermore, I would not normally even think of cycling without a helmet myself, although I do echo the concerns raised by the Constable of St. Helier and others when they talked about needing to sometimes make that snap judgment decision where for one reason or another they find themselves and their bicycle in one location and their helmet in another. It may surprise some people, then, to learn that I do not support Deputy Green’s proposition. It is so much better to do something because we believe it is the right course of action than because we are forced to. **[Approbation]** We have to consider the need for legislation coolly and without too much emotion because we have to appreciate the full impact that that legislation will have; that the decisions that we make today will have on the lives of all Islanders. Let us be quite clear. I do not think that we are talking here about road safety. That is a much bigger issue. We are not talking about bad cycling habits. That is something that the Deputy of St. John’s proposition will look at. What we are talking about here is responsibility and risk. In the play group in St. Mary - the Kids Club - there was a poster for a long time that had a great effect on me. It was a picture of a young girl, I think, hanging upside down from a climbing frame by her knees, having a whale of a time you could see by the look on her face. It said, quite simply, children want and need to take risks when they play. **[Approbation]** Life is risky. In fact, I have heard it said

that the only risk-free state is death. We do need to be able to put those risks into perspective and to make choices to manage and mitigate risk in many, many aspects of our lives on a daily basis. This never changes. Each time we take away the responsibility of people to manage their own risk, we erode their capability to deal with risk just a little bit more. I ask Members where will we decide to stop? As I have said, I choose to wear a helmet. I have absolutely no doubt that in some circumstances correctly worn and correctly fitted - and that is a very important thing - a helmet will reduce the risk of serious injury, but I do not know for a fact that this is always true. There is not conclusive medical evidence one way or the other. I have had representations from both camps. I have looked at it on the internet. I have seen pros and cons. There are pros and there are cons. I am not confident enough to say that I know absolutely that I know better than everyone else and that I am saying: "Yes, we must do this." I encourage Members to think about other areas where there is a real possibility of limiting injury and perhaps avoiding death, yet we do not legislate. There are many, but let us just consider one. Let us consider the M.M.R. (measles, mumps, rubella) vaccination. We know that each of these 3 conditions, measles, mumps and rubella, can have very serious side effects. I looked on our own government website and was headed off to the N.H.S. (National Health Service) website: "Measles is a highly contagious disease characterised by a high fever and rash. About one in every 15 children who catches measles has complications including meningitis, pneumonia, fits, blindness and brain damage. Occasionally, measles can kill." I will not go into the other symptoms, but mumps can cause viral meningitis; it can also cause, I am told, in men a rather painful swelling of areas that we will not go into that might make cycling difficult. **[Laughter]** Rubella can cause injuries, as we know, particularly to unborn children. There are huge risks here, but there is a very effective and very safe vaccination. We do not make vaccination compulsory. We encourage people by explaining to them what the risks are. We leave it to the parents to make that choice. Can Members imagine the furore that would be caused if we brought a proposition saying: "M.M.R. vaccination will be made compulsory", and I think rightly so. I ask will the Constable of St. Peter refuse to treat anyone who has complications arising out of measles because they have chosen or their parents have chosen not to have the vaccination? I think there are real parallels here if you remove the emotion, and I think that is what we must do. Are Members absolutely sure enough that there is no risk of an aggravated injury or even an injury caused by cycle helmet wearing that they will 100 per cent guarantee to members of the public that they must wear cycle helmets? We have heard from Deputy Power cases of injury being caused by cycle helmets. Imagine the scenario: "Go on, Johnny, go off to the park and play on your bicycle. It is safe, I can see you from my window." Perfectly understandable scenario. Johnny is cycling around but Johnny has been told: "Do not take your cycle helmet off because if one of your mates hides it or you lose it you will not be able to ride your bike." So he plays all morning with his cycle helmet on. I have seen instances on the internet last night, reading about this, as Deputy Power has said, children dying from asphyxiation, climbing a tree with all their mates but getting caught. It has happened. It is a freak accident, you might say. Absolutely yes, but it is preventable by not wearing the helmet for that sport. But children do not necessarily understand all the risks. That is why as parents we should be able to encourage our children, to educate them and to help them make that right decision, not only when they are little but as they grow older to understand how to manage risks. Incidentally, I think it might be worth saying that many of the people who contacted me about cycle helmet wearing, whether it should be compulsory or not, urged me not to support the proposition, but almost all of them who did said to me: "Oh, but by the way, I always wear a helmet." Many, many people choose to wear a helmet but do not believe it should be compulsory, and that is firmly where I sit. Whenever I vote I do so after a lot of reflection, after searching my principles, and I know full well that I may not always be right and I know full well that some of the decisions I make may turn out to be perhaps the wrong decision. But because of the way I make my decisions I have very little cause to sit there and regret my decisions, and that is a very important thing. One decision that I do regret might strike Members as odd. I do regret voting in favour of the compulsory use of rear seatbelts for adults, and that again is not because I think it is wrong because fundamentally it is not wrong. I remember

saying at the time: “If you want to ride in my car, you wear your safety belt.” That is my rule. But I regret it because it took away my responsibility and my ability to look at every situation. It came home to me when months later, after the vote, I was travelling in a vehicle with the very politician whose speech had encouraged me to vote for that, and he did not put his safety belt on.

[10:45]

I said: “Come on, buckle up, X. It is the law. You were the one who pushed this through.” “Oh, we are only going a couple of hundred yards, it is okay.” Absolutely in that particular case he was probably right. He looked at what was happening, he made a judgment call and he decided not to put it on. But he was wrong because it is the law. I do not believe you can have this weak enforcement. Absolutely I agree with Senator Le Marquand there are lots of laws that we are unable to fully police, but that is the nature of the game. You cannot be in every place at every time. But the fact of having the principle of the law must be that it is going to be enforced. The light touch I do not understand. **[Approbation]** The first time my son perhaps rides off to school with his bicycle helmet on but then leaves it hidden in the hedge at the end of our drive, which was something that happened when my son was riding to school, the first time he might get a rap on the knuckles and they will come and see me and I will perhaps have to go and see the Centenier. Gosh. The second time that it happens, what will happen to him? I tell you there will not be a second time because the conversation is going to be between my son and I very much like the conversation between Deputy Martin and her son: “If you are not wearing your helmet, you are not riding your bike.” Then instantly the problem is solved, my responsibility has gone because I am no longer responsible for a young person who is riding without a helmet, but again he is not riding his bike at all. So, instantly, we have reduced the number of cyclists. I really feel that this can be analysed quite simply in a matter of responsibility and risk. There is a world of difference between riding a motorcycle and riding a bicycle. I do both. I would never dream, whether it is compulsory or not, of riding my motorcycle ... I would not ride without gloves and I would not ride without boots because I have seen someone with their foot torn off and I have seen someone with their bones showing. That is not compulsory but it makes common sense and most motorcyclists do that. Do things because they are the right, sensible thing to do. I believe in wearing a cycle helmet, but I know someone very close to me who will not wear a cycle helmet, has always refused to, because of an accident they had when they were young hates the idea of anything strapped on and will not wear a cycle helmet but will cycle. He said: “Well, I will break the law.” That worries me because of my position of upholding the law, which I believe we must do. We have a responsibility to bring in laws that are right for the community, and I fundamentally believe that this law - this compulsion - is not the way that we should tackle this. I believe there is a better way. Education is the better way. Compulsion I think will be self-defeating.

1.1.8 Connétable L. Norman of St. Clement:

This will be very brief. The Deputy of St. Mary and, indeed, some other Members have made the connection between incidence of increased obesity and reduction in the incidence of cycling. I have not ridden a bicycle for something like 50 years and I do not think that many would consider me sufficiently overweight to be considered obese. On the other hand, the Deputy of St. John is a regular cyclist. **[Laughter]** I rest my case.

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

As a professional fence-sitter, this is very much a debate of a curse upon both your houses, I am afraid. I know there are a lot of Members who are not as profoundly libertarian as some who have spoken, like the Constable of St. Mary. There has been a slight misuse, I have to say, in the enthusiasm of the Deputy of St. Mary of statistics and, sadly, the case for the wearing of helmets by Deputy Green, who usually puts very brisk, to the point cases. I have to say on this occasion it was slightly spoiled by the personal remarks that were made and, sadly, were gratuitous. What I would

say in terms of the Deputy of St. Mary, he has almost put the case that the whole cause of world peace will be imperilled if there is compulsory wearing of cycle helmets. I think, quite frankly, there has been an over-statement of the case because these things are usually a matter of balance - a balance of risks - and I do not think, as he and some other Members have said, that it is necessarily going to be the end of the world if there is the compulsory wearing of helmets. I would, for example, refer to the way he has used statistics when he refers to the Australians. He refers to this tremendous drop from 80 per cent of Australian children walking or riding in 1977 to around 5 per cent now. Well, as he well knows, that is a western society trend. It has happened all over the west. It has been to do with the massive use of the motor car and it has been to do with the fact - and he is quite right in inferring this from his argument - that the more cars you have on the road the more you deter people from walking and cycling and so on. It is not to do *per se* with the introduction of helmets, so I think while the statistic is correct, the inferences that he has chosen to draw from it are very incorrect. Similarly, as I think Deputy Maçon by his body language indicated, to suggest that great slur upon a great nation, to suggest that all Australians or vast numbers of Australians are obese because of the introduction of the cycle helmet law, is really pushing the limits of credulity to the absolute limit. It is to do with all sorts of factors. It is to do with easy availability of fast food. Yes, it is to do with the widespread use of the car and the easy use of the car in running children to school and so forth. It is to do with a vast number of factors, and just to isolate one factor and to make a correlation between that and, therefore, the increasing obesity of the Australian nation is really pushing the boat out, quite frankly. That is why this debate has become fairly confusing. The other thing I noticed that underlies a lot of the Deputy of St. Mary's speech ... and I have to admire him, I think it has been a real *tour de force*, but we have to be always attentive, as Deputy Southern said yesterday, to these little sort of allusions, as I would say, these little introductions of statistics that start at a fairly minor level and then become the whole centrepiece of the argument. For example, he talked about a 30 per cent permanent dip in cycling. We do not know if it is permanent. We know when laws come in there is usually a dip. For example, there might have been a dip - I do not know - in the use of cars when the seatbelt law came in. We know that but it does not mean that behaviour does not readjust itself and people do not readjust to changed circumstances. It is an evolving situation, and to use terms like "permanent" I would suggest is wrong. The main point I was making is this mutual exclusivity that he seems to continually describe as between environmental moves like speed limits and so forth and safety. He seems to see these things as mutually exclusive, whereas I would suggest in terms of road safety policy that you can adopt a much more holistic approach where you can have people wearing helmets and you can manage the environment in which they cycle a lot better. The 2 are not mutually exclusive. We do that a lot of the time where we bring in some moves but we try and manage the environment at the same time, and he is quite right. But he goes on and on about, for example, the damage to society caused by excessive alcohol and he is quite right, but society, interestingly, yes, we have got laws against that to an extent but we have not got the ultimate law, which is prohibition. We have relied on education. We have relied on it. If you infer from the real damage that the Deputy talks about, it suggests to me that education has not worked and that as a society, given the immensity of the problem that he described, we have to look at more draconian solutions. Because the notion when a man or woman from Mars will descend and they will see the mayhem that occurs on our streets, they will see the licensed - so to speak - fighting, the fear that is generated on Friday and Saturday nights; they will say: "Why did we as a society tolerate this?" This is controlled anarchy, if you will forgive the paradox. We support this controlled anarchy and yet we have chosen education as the route to try and deal with the situation. So, I am not sure that his measurement of a risk is right also in that respect. So, I am not satisfied with the way both arguments have been presented, but I do give full marks to Deputy Green for passion and commitment and I give full marks to the Deputy of St. Mary ... **[Interruption]** One of the great lessons, as you say, of being a lecturer is that the brain can only take as much as the posterior can stand. **[Laughter]** The rule of thumb is 20 minutes, and I will probably come on the side of Deputy Green.

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

I followed yesterday's debate and this morning's debate very intently and I have also been considering the issues overnight. There are a number of things that I think Members should consider, and one or 2 other Members have mentioned them this morning. Firstly is the danger of making law based on emotion. While I have every sympathy with Deputy Green because of the serious injuries sustained by his son and with other parents who have had children who have had similar experiences or injuries, I do not think that we should make laws based on emotion as very often they lead to bad law. I also think Members should take a step back and consider the actual evidence and then make a decision. Yesterday and today we have been bombarded by a battle of reports and statistics, but my conclusion so far is that, to use the Scottish legal term, the case for cycle helmets has not been proven. We were told, for example, that there were 51 head injury cases treated by A. and E. last year, but we were not told how many of them were as a result of cycle accidents or cycle accidents on public roads, whether the people concerned were wearing helmets or they were not wearing helmets, nor in how many cases of these accidents head injuries were the primary injury. We have no information about whether any of these cyclists were transferred to Southampton because of brain injury or that they had severe disability or death. So, statistics alone... some of the statistics we have had are incomplete. I am also concerned about a number of statements that have been made during the debate. The Constable of St. Mary brought up one that I am concerned about, passing laws that have a light touch. If the States enact legislation then it should be enforced. There is no point in passing laws otherwise. Now, how, therefore, can you have a light touch when the police are empowered to act and the penalties are laid down in the law? I also do not believe in criminalising people for not wearing a helmet. Already in this Island 20,000 people have a criminal record. These are figures that I got from the Minister for Home Affairs. Do we want to add our children to the list, something which will always remain on their record and could be brought up later to their detriment, and do not think the Rehabilitation of Offenders (Jersey) Law or wiping it because they become adults will exclude it. It does not. Firms are getting around that law. It may also bring our young people into conflict with the police and others who are trying to enforce the law, which depending upon the nature of the incident may colour their attitude to the police or authority for life. I also believe that many parents believe that if it becomes law then their children will wear their helmets. Well, we all know that they may do while they are in their parents' sight, but when they get out of their sight the helmet could come off, or the helmet which was fastened securely before they set off may be then put on very, very loose, and a loose helmet is probably as dangerous as not having a helmet. It was also said yesterday that you cannot legislate for stupidity. I also believe that people must take more responsibility for their own actions and I sometimes wonder how far the States should be legislating for health and safety which in many areas is becoming an industry in its own right. Now, the States passed last year the Strategic Plan and priority 8 states: "We have lost much of the community spirit and personal responsibility of previous generations. People need to take more responsibility for their own lives and wellbeing." This Assembly passed that.

[11:00]

Also, just going back to Deputy Le Hérissier, he was going on about, for example, he did not think that education was working, but the States also passed in the Strategic Plan priority 7 in relation to alcohol and drugs and he voted for that. Therefore, he did vote for it on the one hand and he is saying it does not work now, a slight contradiction. I think education can work. Going on to this thing about how far do we take the law, for example, we are looking now at cyclists. Rollerblading and skateboarding are both dangerous activities. We do not legislate at present - maybe next week - for helmets for those activities. The same goes for a lot of other things that we do. For example, quite a few years ago I was taking my children to nursery and on the ice I slipped, almost cracked my skull open. Now, are we then going to start legislating for people in icy conditions - pedestrians - to wear helmets? How far do we take taking on board people's health and safety and

not letting them be responsible for their own actions? Saying that, a number of Members yesterday put their hands up and made confessions to the Assembly. Well, I am going to do the same today. When I was much younger, I had a serious accident which almost resulted in me losing the top of my skull. I do use that as an excuse for my hair loss but it was not the reason. The accident resulted in a fracture that went all around the top of my skull with the exception of a 2-inch portion on my forehead. It was caused in a carting accident and caused by the fact that I was not wearing a helmet. But the reason why I was not wearing a helmet was I had started off wearing a helmet, I was racing around in the go-kart, and the bubble visor misted up and I took my helmet off and raced off and the very next corner I crashed with the resulting accident. Now, even despite that accident, I am against using the law to compel people wearing helmets. I do believe that people should wear helmets when they are engaging in certain activities - for cycling I would recommend it as well - but I do not believe in making it compulsory. Therefore, I will not be supporting this proposition.

1.1.11 Deputy J.A.N. Le Fondré of St. Lawrence:

I am going to keep a fairly simple line on this because I think it has been said a number of times but we keep coming back to these sorts of points. We have civil liberties versus legislation. We have consistently brought in legislation in respect of seatbelts, of rear seatbelts, and we require moped riders to wear helmets. I use moped riders again as an example. I think in relation to the Constable of St. Mary it is relevant. I used to cycle reasonably extensively and I can say I have got up to significant levels of speed and I have often overtaken a moped rider. I emphasise that is when they were moving. So, what is the difference? We legislate for one but we are saying we do not want to legislate for another. I can also remember quite clearly at least 3 times I have come off my bike and I have been very, very lucky on those occasions. I was very lucky not to hit my head and there was no accident before I decided to come into politics either. But the message I think we are potentially sending out in rejecting this proposition is that potentially people might interpret it that it is not a good idea to wear a helmet, that the Government does not endorse that. I am going to switch sports as a number of speakers have done, again retaining the subject of headgear, and back into skiing. I have skied for many, many years. In the last 3 years I have started wearing a helmet. As far as I am concerned, although there are various other risks, snow is a lot softer than tarmac. I am going to just deal with one assertion that the Deputy of St. Mary made, which is about the attitudes of our continental visitors to being told to wear certain types of headgear. It was just a conversation I had with one of the operators within the hotel we were at relatively recently about tobogganing. They are now saying that they are strongly recommending even individuals going tobogganing wearing a helmet. Yet when I skied past that particular toboggan run I have not noticed a drop in the use; in fact, it was amazing how busy it was. There were no negative results and their customer base is significantly German, Dutch, Belgian. So, if it is presented in the right way it is not going to be this sort of total meltdown of the tourism industry that the Deputy I think was trying to assert. I am not going to suggest Members do this, but imagine your nice wooden desk here. Imagine hitting your head on that desk, which you may feel inclined to do at the moment. **[Laughter]** Then imagine doing it at any form of speed. Then imagine doing that on a tarmac road. I am going to be supporting the proposition categorically for 18 year-olds for the part (a) and I am almost certain I am going to be supporting part (b). A comment has been made: "It is my head, it is my problem, it is freedom of choice" and that type of thing. I think it does go much further than that. I think it is the impact upon your family, I think it is the impact upon your friends, and I think there is a wider impact upon society as well. It is not just my problem. This is part of the wider issue of providing facilities for cyclists and that type of thing, but this is an appropriate step on that route. Yes, there are loads of other issues, but this is a step. So, yes, I will be supporting the proposition as I have outlined.

1.1.12 Deputy T.A. Vallois:

I am not going to go over everything that everyone else has said, I am just going to make a point that nobody else has. We have talked about seatbelts and how that has been legislated for. We have talked about cycle helmets and how that has been legislated for. Now, I believe that there has been extensive research and evidence to support the reasons for those kinds of legislation. I will just put the point about airbags in cars. Now, airbags in cars people thought was a good measure because it prevented people from getting brain injury, from getting head injury, from severe injuries or death. It has been proven that airbags can cause people more injury through a minor crash than what they do to protect people in major crashes. So now manufacturers only in the last few years have been starting to put switches in cars where you can turn the airbag facility off. Young children are not allowed to be in the area of an airbag in a car because it is too dangerous. Now, personally, with regards to cycle helmets there is not enough empirical evidence to suggest that cycle helmets are the right way forward, to make people wear them when they are cycling. There is a big difference between people being able to overtake people on mopeds compared to people just having a jolly, cycling down the road with their family. Now, myself, as a parent, I have a 3 year-old son who has only just started to ride a bike. It is my responsibility to ensure the safety of my child and I take that responsibility head on. Not the Government; it is my responsibility. I make sure that my son does not get on that bike until he wears a helmet. That is my responsibility; that is the way I believe it. When my son reaches the age of 10 there are free cycling proficiencies to allow him to understand the way of the road, the way to use a road appropriately. If he wants to use the road on his bike, he will do a cycling proficiency test and he will learn how to use it properly. Now, there is this thing called a community and neighbourhood. As part of priority 8 in our Strategic Plan, which we all in this Assembly agreed to, it said: "People who live independent lives tend to flourish when opportunities and incentives empower them to manage their own lives. A new approach to social policy is needed which recognises the shared responsibility of the States and the people of Jersey to create a better future for individuals and the community. Helping individuals to help themselves, their families and neighbourhood is central to this approach." Now, what I see here... although I understand Deputy Green's reason for bringing this, I see this as us taking the responsibility out of those people's hands and giving those people the choice. It is not about freedom of choice. It is about saying to your neighbours: "Do you realise the consequences?" I think we all have to realise the consequences and say to people ... I do not particularly want my child to have a brain injury but there is no scientific evidence for me to suggest that I should make a parent do that. To me it is difficult because there are a minority of people out there that may not ensure that their children wear helmets. Unfortunately, that is the same for everything in risks and safety. Nobody knows the full balance of risks. So, for that reason I cannot support Deputy Green's proposition (a) or (b).

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

You will be pleased to know I will be very brief. I am in complete agreement with the Constable of St. Ouen when he made the point yesterday that if this law saves one child from brain injury through wearing a cycle helmet I am all for it. When all the children have to wear helmets, it will be the norm and then it will not be uncool. This is not being a nanny state; the caring society where we put the safety of our people, especially our children, first. I would urge everyone to accept part (a) and as our children grow up they will be used to wearing helmets and they will continue to do so. We will not need it as a law.

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

I will not be long either, but maybe while I am speaking I may be able to get Members to put their thinking caps on and consider what is the most important nut on a bike. We will come back to that presently. I would like to compliment Deputy Green on his speech. Very strong emotion; however, the one thing I would like to have had more is to know how the law would work, particularly when you have the age of criminal responsibility at 10. What about an 8 year-old going out on a bike? Who is going to be responsible? How will that be enforced? Again, that is

the consideration. I think most people around St. Martin and Trinity, in fact, know that I am a keen cyclist and I have been cycling for years. The bike I ride is a bike I bought from Illien's when I left school at Christmas 1955. **[Laughter]** It still goes well, never had a prang on it, and the one thing that I do advise everybody is that when you are riding your bike be assertive. Ensure that people cannot overtake you at places they should not attempt. Part of that all comes through experience and training, and the wearing of safety helmets is not going to make a huge deal of difference to that one way or the other. I do not wear a crash helmet or safety helmet. I wear a cap, and it shows. **[Interruption]** **[Laughter]** In fact, I can remember Deputy Le Main when he was a youngster. He would ride, like I used to, an A.S.P: all spare parts. We used to make them up and, again, we did not have crashes on those. Can I just pick up on one thing which has just been again said by Deputy Dupre of St. Clement, indeed endorsing what the Connétable of St. Ouen had to say, that we must have this particular law because it may save one life. Can I just remind everybody at the moment that there is no law against wearing one at the moment? If you wore one you would not get into trouble, so surely it is not going to make any difference at all. So, again, I think I would like to get rid of that myth. So, let us look at that important nut. Have we all got it? Have we worked it out? The most important nut on a bike is the person riding it. So, again, what we need is constant training and education. I know Deputy Le Hérissier was saying education and training does not always help, but it has to. What it is, is to make sure that when people are riding their bike they are assertive, they know what they are doing, they are responsible for their actions. Certainly, parents should be responsible for their children. If it is their choice to make their child wear a safety helmet, so be it, but I certainly will not be supporting it. Deputy Green knows I was not supporting it, albeit I did give road safety instructions for many years. Again, I always maintain it is making sure you know what you are doing on your bike. A safety helmet may be a backup but it is not the end of it. Education, training, awareness: that is what we want. We do not necessarily need a law to enforce that.

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

Like Deputy Vallois, I have absolutely no intention of going through a 3-page speech now because a lot of good points have been made and have been made several times. I would just like to touch on 4 points. I would like Deputy Green when he sums up to clarify his comment about the 51 brain injuries because when that was questioned I was very disappointed and it did sway me back the other way.

[11:15]

I am quite sure he would not deliberately mislead but I would like him to respond and clarify that matter. Part (b) I could absolutely never support because I am afraid in instances like this compulsion is not the way forward. We have heard statistics. As a gentleman said to me yesterday, they have been made to support both proposers' arguments and it has got more and more confusing as we have gone on. I think it comes down to our own judgment. Maybe for once a review would have been worth having. Possibly my decision that I cannot support this is based on my ideals, but I do strongly believe that if you are not free to choose and choose wrongly and irresponsibly, as the famous quotation says, you are not free at all. Deputy Vallois has really summed that up. It is really down to parents, I think, to take that lead on children. We probably have failed, as Deputy Le Hérissier says, but then that just shows us we should do more. Where would you draw the line with legislation? What would we add next? I would also like Deputy Green to tell us who will be the criminal if this is passed. Will it be the parent? Will it be the child? The parent who probably sends that child off to school in good faith with a helmet on his or her head and then a helmet that will disappear during the course of the day, because it will in many cases due to peer pressure. Anyone who has worked with young people knows that is a fact. Deputy Martin touched on a good point yesterday when she highlighted the case of her incident with her son where if he did not agree to wear the helmet then he did not get the bike. Working with young people, it was often the case

that if you wanted to take part in an activity then you had to agree. Whatever your views about being cool or whatever, you had to agree to wear a helmet. Although that can be said to be compulsion in itself, it does not mean creating a new law. I think by making laws like this we are only adding to the problem that we see all the time where parental responsibility is being eroded and eroded and eroded, and that cannot be a possible thing. The final thing to say is that if part (a) is passed when it comes back to the House, I will most definitely attempt to amend it because I was interested to see that the Deputy justified that 18 year-old age group from my naming of a young offenders debate. Well, I am sorry, but 18 is just too old. You certainly can make an informed decision before 18. I just cannot believe that a person of that age is a child. So, possibly he can still persuade me in his summing up to support part (a) but, as I say, I will definitely amend it because 18 is just not right.

1.1.16 Senator B.E. Shenton:

Before I start, I have to do the usual disclaimer. I am a director of the Channel Islands Co-operative Society that sells both cycle helmets and bicycles, although having listened to Deputy Green sales of cycle helmets will go up if this proposition goes through, but having listened to the Deputy of St. Mary sales of bicycles will go right down. So, there is probably no actual financial gain whatsoever. I used to help teach cycling proficiency at Beaulieu for a few years and we used to show the children videos and take them on courses and teach them about the importance of wearing helmets. They could not take part in the cycling proficiency programme unless they did wear a helmet. But I can guarantee you that ... I cannot give you exact statistics but I would say at least half of them when I used to see them out would not have their helmet on or would have it dangling round the bars. Quite a few well-educated parents would not even insist that their children should wear a helmet. So, you can talk about education but, quite frankly, in some cases it just does not work. We have spoken about the soft touch of policing and this is something that came up in the seatbelt law many years ago where when the seatbelt law came in they said they would police it with a soft touch because there was tremendous opposition to seatbelts coming in from a large portion of the Chamber. Also, when we brought in the smoking ban not that long ago, we also said then that we would police it with a soft touch. So, you can bring laws in and treat them with a soft touch, and there is nothing wrong with just tapping a child on the shoulder and saying: "You should be wearing your helmet. Make sure I do not see you without it again" and so on. We have the very good Parish Hall Inquiry system over here which can provide that sort of family-soft touch for laws like this. We are not trying to criminalise anyone. We are just trying to protect people and that is what it is all about. So, out of personal experience, about 4 years ago my eldest daughter, who was about age 14 at the time, was cycling on the main road from Grouville to Gorey. She was going to Pound World to get me a father's day present, [Laughter] which just shows how much she thinks of me. She was cycling along the main road with her sister and her sister called out and she turned round to see what she was saying and she hit the kerb. As a result of that, she hit a granite wall straight on, broke both arms, and her cycle helmet, which we disposed of, was completely dented and cracked up the middle. Now, if she had not been wearing a cycle helmet those 4 years ago - and they were not allowed out of the house without the cycle helmet on - goodness knows how my life may have changed and how her life may have changed. The Deputy of St. Mary mentions about less people cycling. Well, the reason less people cycle - and I think he would agree with this - is because the roads are so much more dangerous these days. So, by that recognition that the roads are more dangerous, you do perhaps need more protection these days than you did in the past. If he wants to make safer routes to school and so on, that is fine, but they are not in place at the moment. The roads are dangerous and this can save lives. Finally, I would like to talk about freedom of choice because we have this liberal freedom of choice thing. I will be honest with you. I am a keen motorcyclist and I would love now and again to go out, however stupid it is, if I am just popping down the road, maybe not chuck the helmet on.

Senator J.L. Perchard:

Feel the wind in your hair. [Laughter]

Senator B.E. Shenton:

I digress, but I did lose my hair very early and at one point I did have a crash helmet with a lone flock of hair out the back and when I took the helmet off the whole hair came with it. [Laughter] If you were just popping down the road, the temptation may well be there just to pop down without the helmet on, but it would be stupid to do it. I do not do it because the law is in place that prevents me from doing it. Finally, the final point is I was previously Minister for Health and Social Services and Deputy Vallois spoke about the responsibility of parents to make sure that their children go out with their crash helmets on, with their cycle helmets on. But not all parents do that, and when they do not do that and they get involved in an accident, the responsibility moves from the parent to the Minister for Health and Social Services. It moves to the Department of Health that suddenly has a patient on their hands that they have to deal with perhaps for the rest of their lives. Senator Perchard used to talk about our million pound patients, these patients that were a significant cost to the taxpayer. Quite rightly so that we would give them the best care and attention that we could. Now, as a taxpayer I do not have any freedom of choice of whether I fund the care for that person that went out perhaps and damaged themselves through no fault of their own. So, freedom of choice is very well but it is government that has to pick up the pieces in many cases. It is not just the Government that needs to pick up the pieces. If something had happened to my daughter it would have been the family that would have had to pick up the pieces as well. I have seen people and I have met the families of people that have suffered head injuries, and it does devastate their lives. So, we can make all these sort of words about freedom of choice and so on. There is no freedom of choice in this. If you suffer a brain injury it is devastating not only to yourself but to the people around you. Government has a responsibility to protect and I will be supporting Deputy Green and I hope that other Members will do as well.

1.1.17 Senator J.L. Perchard:

I have very little to add but there are 2 points that I think need to be made. I congratulate Members on the debate as nearly everything has been covered. But at some time in history I assume there was a debate in this House about the compulsory wearing of helmets for motorcyclists. I suspect very similar arguments were made at that time. I want to just ask Members what is the difference between a motorcyclist and a cyclist other than a motorcyclist can go faster on the flat or faster uphill? What is the difference? Why would we possibly say that a motorcyclist needs protection and a cyclist does not? I am struggling. A cyclist can go down one of our many hills at 30 miles an hour on skinny tyres very dangerously, and yet we are happy to legislate that a motorcyclist must compulsorily wear a helmet. So, I leave Members to ponder that one. Another point: I urge Members - whichever way they vote - to not send out a message to our population that if you are 18 or under you must wear a helmet but it is safe if you are over 18. We either do this or we do not. To suggest that it is a childish thing that you must do to wear a helmet if you are 18 or under but it is fine if you are over 18 is a bad message for this House to send out. So we either go for (a) and (b) together and say it is the right thing to do, or we abandon the whole proposition because it is the wrong thing to do. To select an 18 year-old or a 19 year-old as being safe or unsafe in my opinion is a nonsense. So, I urge Members to go for (a) and (b). It is the right thing to do. It makes common sense. If we can save one traumatic brain injury and the stress that causes and the cost to the taxpayer that incurs - the million pound patients - it is the right thing to do.

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

I think virtually every speaker has agreed that wearing a cycle helmet is a good thing to do, apart from perhaps the Deputy of St. Martin who feels that cyclists should be more assertive and that would be the best thing for them to do. But I think that probably leaves 52 Members or thereabouts who think that wearing cycle helmets is a good thing. It is trying to balance whether we should make that compulsory or not. I must admit to being somewhat confused by some comments that

Members have made today. There was an opportunity to do more work on this proposition yesterday and Members have one by one stood up and said that they do not believe that the evidence is in place or the case has been made. We have had that debate, we have lost that opportunity, and now we must make a decision on the facts as they have been presented before us. Despite what some might have felt yesterday, I do not shy away from making a decision and I will be doing that hopefully shortly. I think one of the main arguments against Deputy Green's proposition has been that there are lots of other things that we should be doing and we should not necessarily start here by making cycle helmet wearing compulsory. I have not been a politician for a long time - not as long as many Members of this House - but I have become aware of political arguments. This is a first-class political argument: "Well, it is a good thing, but there are lots of other things we should be doing and this really is not the place that we should start." It is like the gentleman offering directions, saying: "Of course, I know where you ought to go to, but I really would not start here, I would start from somewhere else." That I do not think is a very strong argument. I appreciate that there are lots of things that this Assembly could do to enhance road safety. The T.T.S. (Transport and Technical Services) Department, in answer to a question only yesterday, said that they are about coming to a conclusion on proposals about speed limits. They did an excellent review. They have taken legal advice and they will be bringing forward some changes, I hope, to speeding limits. We also heard about the other health issues that might arise should people stop cycling in any great numbers, and evidence has been presented to us on that front.

[11:30]

I would say in answer to that that they are issues that we should be addressing in any event. We know already that obesity is a problem which unfortunately has crept up on us, and that is a problem that the Health Department will have to develop a strategy for and we in this Assembly will have to address those issues and be innovative in how we deal with them. I think we all agree that more exercise will go a long way in helping to eliminate some of those issues and there is no doubt that cycling helps in that respect. But in the evidence that has been presented, in my opinion, the wearing of helmets does help the safety of the cyclist. What we need to do is ensure that we encourage more people to cycle, more people to work, encourage a safer travelling environment across the Island. That will mean all of us pulling together and perhaps, with regard to the cyclist, it is where I hope we might be able to support the Deputy of St. John, who wants a review I believe not only of cycling legislation but cycling safety. If we are serious and we are going to support Deputy Green, then we must not step back from these other issues which are just as serious but also need to be addressed by this Assembly. I have to say that with regard to the civil liberties argument on this front, I do find that that is today one of the weakest ones because we do, as an Assembly, have a responsibility to the community that we are elected to represent. We have a responsibility and a duty of care to decide when a communal decision is more appropriate than civil liberties and the individual responsibility. They must be balanced and I believe that in this instance the balance should be in favour of making cycle helmet wearing compulsory. A number of Members have also talked about the policing and we should not present legislation if we are going to police it with a light touch. Well, we in this Assembly will have the ability to decide exactly what that light touch approach might be. It might be small fines, it might be passing legislation that says that it will purely be policed at a Parish Hall level. So, that will be for us to decide, not today but in the future. If the department comes forward with a heavy-handed approach, then that will be for us to amend it and to change it in an appropriate way. So, I will sum up by saying I do not believe that it should be either/or, perhaps as the arguments have been presented before, but we should be addressing all these measures and, therefore, not shying away from a decision. I have concluded that today I will be supporting Deputy Green and I urge Members to do the same but not take one's foot off the accelerator with addressing all the other issues that this debate has brought forward that we do as an Assembly need to address as well.

1.1.19 Senator A.J.H. Maclean:

I would not want to be left out so I am just going to say a few words. I do promise you, Sir, and Members it will be a very few words. I was going to comment... I have had the pleasure of watching Deputy Le Hérissier ride his bicycle and I have noticed that he has the wisdom to wear his cycle helmet. I think that is a very good thing, having witnessed his meanderings on his bicycle. **[Laughter]** I raise the point because although Deputy Le Hérissier has the wisdom to wear his cycle helmet, sadly there are others who do not. In particular, there are some parents of young children who do not have the wisdom to insist that their children put on helmets. I think this is something that from my point of view as a parent with young children we have to focus on. If we can by supporting Deputy Green - and I have to at this point offer congratulations to him in bringing forward this proposal - save just one life, just one family's heartache, then I think there is significant value. I think that is the main area I would like to just focus on. The only other points I was going to raise... listening with interest to the Deputy of St. Mary's comments, he made a big play on the need for this Assembly to use evidence and facts when making decisions. Of course, he is absolutely right. However, I did note through many of the comments that he raised there was a distinct lack of evidence and a distinct lack of facts. In particular, and I will just use one quote and I am sure he will correct me if I am incorrect, he was talking about the effect of the legislation should it be adopted, or this proposition be adopted, on cycling and tourism cycling in particular, something that my department has spent a great deal of time promoting, a great deal of money investing in, and it is an important part of our tourism offering. I do not believe for one moment that we are going to see less tourists coming to the Island to enjoy cycling by the introduction of legislation such as this. I do not see any evidence whatsoever of that, and how the Deputy of St. Mary can say, and I quote: "I know we will lose visitors", I am afraid there is no supporting or backing evidence to that effect. I think that is all I really want to say. I would just urge Members to be supportive of Deputy Green. I think he has done a fantastic job in bringing forward this difficult in some respects proposition, I am sure difficult from his perspective, but I do think it is something that... although I am not one who is particularly keen on over-legislating, I would like to see in many respects education being the way forward in matters such as this. I just do not believe that we are going to achieve it. So, without doubt, a light touch in the application of such legislation is in my opinion the way forward and I would hope that Members would support that view.

The Deputy Bailiff:

Does any other Member wish to speak? **[Laughter]** I thought you had spoken already, Senator Le Main. Does any other Member wish to speak? Very well, then I will ask Deputy Green to sum up.

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

Before I start, I would just like to particularly thank the Greffier and his staff for the tremendous support and work they gave me in putting this proposition together and getting it printed. It really was appreciated. Members will be pleased to hear that it is not my intention to spend too long in summing up. We have had a full and at times lively debate and have considered all the appropriate issues. I intend to be brief and to the point. The quality of the debate has been first class. I congratulate those Members who have participated, including those who do not share my view. The standard approach at this stage would be to go through the key issues raised in the debate and to respond to each of them. I do not believe that this is necessary because of the earlier contributions from some Members that have dealt so effectively with many of the points raised. For example, a number of Members raised the importance of the issue of freedom of choice, the nanny state. The contributions from the Minister for Home Affairs, the Minister for Treasury and Resources, Senator Shenton - former Minister for Health and Social Services, and the Minister for Social Security were particularly illuminating to me. They pointed out that the freedom of the individual must always be balanced with the responsibilities to the community. If the individual expects the state to provide health and social services, housing and all the other necessary benefits

in the event of a catastrophic injury, then the state has the right to expect the individual to minimise the risk of sustaining such an injury in the first place. Other Members questioned the possibility of criminalising cyclists and others were concerned about the burden of enforcement on the police officers. Once again, the Minister for Home Affairs made a significant contribution which drew on his experience as a lawyer and as a magistrate but with a good measure of good old common sense. He outlined the light touch approach that could be adopted. It is an approach that has much to commend it and should allay the concerns that some Members have expressed. However, the questions raised by the Constable of St. Lawrence were so fundamental to what I am trying to achieve I want to cover those points myself. I will work to ensure that if this law is accepted it will not become anti-cycling legislation. How will I do this? Well, first of all, I want to say that cycling is fun, cycling is enjoyable, and shame on people that try to suggest otherwise. I want to increase usage. How will I do this? I will work with the Minister for T.T.S. and others, including the Deputy of St. Mary, to promote cycling, to improve facilities, to increase usage. There are a whole raft of things that we can bring about to achieve this and, as I say, including some of the excellent ideas from the Deputy of St. Mary, Deputy Le Claire and Deputy Fox. It is not either/or, it is both. I will work to ensure that cyclists will not be criminalised. How? I have a very simple approach to this and while draft legislation will have to come if accepted from the Minister for T.T.S., again I will work with the Minister. My approach is very simple; there may be other ways but my approach would be to treat the breaches of law in a similar way to parking offences. Although the penalty obviously would be set much, much lower how many of us have a criminal record for parking offences? None of us. I will work to ensure that there is not excessive demands on the resources of our police. Like the Minister for Home Affairs I envisage a light touch here. I do not envisage policemen jumping out of hedges or running after bikes, although it is a point that we do have, Senator Ferguson, police on bikes, not motorbikes; police on bikes, and they wear helmets. I do not envisage special allocation of resources. What I envisage is officers going about their normal duties, dealing with all the offences, whatever the nature, including helmet infractions. The light touch might include words of advice given on the street or, as I said, possibly a fixed penalty. It is all in the melting pot. Why are we being so negative? I believe 98 per cent of the community are law abiding anyway. Deputy Martin found a very good way of making a serious point with her characteristic good humour and I was pleased to see her demonstrate that she really does know her elbow from other parts of her anatomy. **[Laughter]** She spoke up for many mums in Jersey by asking the Assembly to support mothers and fathers by approving this proposition. Some Members have questioned the age I have suggested in the first part, in part (a) of my proposition. Members should understand that if they still have such concerns, if this proposition is accepted, when the Minister for T.T.S. brings forward legislation then it is open for them to move for an amendment to that, be it 15, be it 16, 17, 18, it is in the melting pot. Among one of the most powerful contributions of those were the Minister for Health and Social Services and the Constable of St. Ouen, who both said - and others have followed on by saying it - if we can prevent just one injury, just prevent one lifelong disability, it will all be worthwhile. I could not agree more. Deputy Power and others have asked about the stats and I checked with A. and E. this morning because I wanted to be clear: 51 of the injuries in A. and E. last year, as a total of that 174, people were asking about brain injury versus head injury, and there are no clear statistics to split some of these up. What there is, 4 of those 51 had significant brain injury, were hospitalised and it affected their lives permanently. That is last year alone.

The Deputy of St. Mary:

Could you give the source for that please?

Deputy A.K.F. Green:

Accident and Emergency.

Deputy M.R. Higgins:

If the Deputy could also tell us whether they were cycle accidents.

Deputy A.K.F. Green:

Yes, they were cycle accidents. Of the figures that I have been quoting, the 174 from memory, and the 51, they are all cycle injuries. They are not other injuries in A. and E. They are all child cycle injuries.

[11:45]

The Deputy of St. Mary:

Why are these 4 not in the Jersey Child Accident statistics?

The Deputy Bailiff:

Deputy, would you kindly allow Deputy Green to sum up.

Deputy A.K.F. Green:

Thank you. They are all child accident cycle injuries over 80 per cent of which have happened off-road on the cycle track. Members keep insisting that cycling has declined in Australia. How then do they explain, and it is a fact, that in 2001 775,000 cycles were sold and in 2008 1,204,000 cycles were sold? Members seem to know better than the Minister for Transport in Western Australia. I prefer to accept his word. But it is a fact that in Jersey child cycling is reducing. We do not have helmets here, it is reducing here. Parents want helmets to help them protect their children. Some of my opponents suggested that there were other initiatives that we should be taking. I say to them, they are right. This is not exclusive. I say to them: "Get involved." Bring forward a proposition similar to the Deputy of St. John. In my opening remarks I pointed out that by exercising our judgment and common sense we have the power to change people's lives. We have the power to prevent death and lifelong disability. What could be more important than that? I implore Members to make the right choice, support both (a) and (b) but if Members are unable to do so, then at least give the children of Jersey the same protection as they enjoy in New Jersey and so many other states around the world and support (a). I move the proposition and I call for the appel.

The Deputy Bailiff:

Deputy Green, do I understand that you wish to take the vote on (a) and (b) separately?

Deputy A.K.F. Green:

Yes, Sir.

The Deputy Bailiff:

The appel is called for, I note that all Members are in their designated seats. The vote is on whether the Minister for Transport and Technical Services should be requested to bring forward legislation to ensure that cyclists are required to wear a suitable safety helmet while cycling in the case of persons aged under the age of 18 years. The Greffier will open the voting.

POUR: 33		CONTRE: 16		ABSTAIN: 0
Senator P.F. Routier		Senator T.J. Le Main		
Senator P.F.C. Ozouf		Senator A. Breckon		
Senator B.E. Shenton		Senator S.C. Ferguson		
Senator F.E. Cohen		Connétable of St. Helier		
Senator J.L. Perchard		Connétable of St. Brelade		
Senator A.J.D. Maclean		Connétable of St. John		
Senator B.I. Le Marquand		Connétable of St. Lawrence		
Connétable of St. Ouen		Connétable of St. Mary		
Connétable of Trinity		Deputy of St. Martin		
Connétable of Grouville		Deputy G.P. Southern (H)		

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

The Deputy Bailiff:

We now move to the second vote on part (b) requesting legislation in the case of persons aged 18 years and over. The Greffier will now open the voting.

POUR: 24		CONTRE: 25		ABSTAIN: 0
Senator P.F. Routier		Senator T.J. Le Main		
Senator P.F.C. Ozouf		Senator A. Breckon		
Senator B.E. Shenton		Senator S.C. Ferguson		
Senator F.E. Cohen		Senator A.J.D. Maclean		
Senator J.L. Perchard		Connétable of St. Helier		
Senator B.I. Le Marquand		Connétable of Trinity		
Connétable of St. Ouen		Connétable of St. Brelade		
Connétable of Grouville		Connétable of St. Martin		
Connétable of St. Saviour		Connétable of St. John		
Connétable of St. Clement		Connétable of St. Lawrence		
Connétable of St. Peter		Connétable of St. Mary		
Deputy R.C. Duhamel (S)		Deputy of St. Martin		
Deputy R.G. Le Hérisssier (S)		Deputy G.P. Southern (H)		
Deputy J.B. Fox (H)		Deputy of Grouville		
Deputy J.A. Martin (H)		Deputy S.S.P.A. Power (B)		
Deputy of St. Peter		Deputy K.C. Lewis (S)		
Deputy J.A. Hilton (H)		Deputy I.J. Gorst (C)		
Deputy P.V.F. Le Claire (H)		Deputy of St. John		
Deputy J.A.N. Le Fondré (L)		Deputy A.E. Jeune (B)		
Deputy of Trinity		Deputy of St. Mary		
Deputy S. Pitman (H)		Deputy T.M. Pitman (H)		
Deputy A.T. Dupré (C)		Deputy T.A. Vallois (S)		
Deputy E.J. Noel (L)		Deputy M.R. Higgins (H)		

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

The Deputy Bailiff:

Before we come to the next item on the agenda, I give notice to Members that P.28 was lodged by the Minister for Economic Development yesterday. The proposition for the establishment of a regulatory and licensing regime for e-gaming in Jersey.

2. Ann Court site: petition (P.202/2009)

The Deputy Bailiff:

We come to the next item on the agenda - P.202 - in the name of Deputy Martin. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether of opinion (a) to agree that the current plans to use the site of Ann Court, St. Helier, for a multi-storey car park should be abandoned; and (b) to request the Council of Ministers to bring forward proposals within the North of Town Masterplan to the Assembly on an appropriate alternative use of the site.

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

I do not intend to be too long as since a year ago much has changed, but I will just give Members a bit of background. I first got involved with Ann Court and visited the site around 1998 when I was on the States Tenants Action Group with a head planner and that became problematic because his name was Hugh and I was allowed to call him H because every time I phoned Planning nobody ... I was speaking to “You” and “You” and “You” and there it all started. At the same time I was also involved with actively standing outside Checkers, standing in King Street outside B.H.S. (British Home Stores), actively petitioning for the Millennium Town Park to happen, along with many, many other people. So it seems weird now but this is ... as these 2 sites have run along together, in my eyes, for a long, long time. We had Ann Court and I was told then that the majority of it needed to be pulled down, some may be saved and refurbished, and we had the promise of a town park just up the road. There has been much to-ing and fro-ing over the years in between and basically it was April 2007; there was a report produced to deliver the town park but it needed a multi-storey car park at the Ann Court site for around 800 cars and 35 homes of a cost then between £23.5 million to £24 million, approximately now around £25 million for homes for cars. Homes for cars in the middle of St. Helier. These plans however were put into action. Unfortunately the tenants who lived in Ann Court were consulted and moved out of the area. The missing element was the surrounding tenants, even as far as Gas Place - the people who were living round the new town park area - they were not consulted, and when the word on the grapevine was heard out there, all the Deputies in both No. 1 and 2 - and probably even No. 3 because this is a big area - were contacted and were asked: “Why have we had to wait over 10 years for a park to be told we are going to need a 800 car park, 200 yards up the road. What about our environment that we live in? What about the traffic? We do not want it.” But it seemed in here... there were lots of comments that if we were serious about getting the park this is the only way to do it. So after being approached I lodged P.184 which is really basically what has been read out by the Greffier but it says: “To agree the current plans to use the site of Ann Court, St. Helier, for a multi-storey car park should be abandoned and that the site instead should be used for a crèche and for sheltered social housing for over-55s” and then (b) to request the Minister for Housing and everyone to work together basically. After this the Deputies were contacted again by residents in the surrounding area who wanted to form a Residents Association and get a petition started and were asking my advice on what would be the best and correct way to go about this. I got the word in from the Greffe and the residents

formed the Town Residents Rejuvenation Association and we stood in the cold from about January to Easter last year on Saturdays with all the other Deputies of the area - the Deputies Pitman, Deputy De Sousa, Southern and Deputy Le Claire - and even the Deputy of St. Mary and some of his people helped because of the environment. I could see he was coming from the green area. We agreed on no cars or no more massive car parks in the middle of St. Helier. We managed to roughly get around 3,000 signatures which was not bad over the 8 weeks on one day a week. After the count by the Greffe it went down to 2,588: obviously you take out some names and people's dogs and everything else, and that was the total. As I say, it was very good. Events overtook P.184 and Planning - and I thank the Minister for Planning and Environment and the Council of Ministers who backed him - decided to do a North of Town Masterplan, which has now been completed. So I then lodged P.202. All it says is to ask: "To agree that the current plans for the use of Ann Court in St. Helier for a multi-storey car park should be abandoned." I am very pleased to see the comments from Planning supporting this proposition. It says: "The Minister for Planning and Environment supports the proposition. The draft North of Town Masterplan has demonstrated that there are better ways to replace the car parking that will be displaced from Gas Place and Minden Place than to build a large above-ground multi-storey car park at Ann Court which will blight the environment for those who live nearby." I fully, fully support that and I am also now working on the implementation group for the Town Park and there has been much suggestion and the timescale is looking good and there are other places to put the public parking and the commuter parking, so we are getting there. I was also delighted in the last few weeks to receive the comments from Housing, which obviously I totally support. It says: "The Minister for Housing is in agreement with the proposition that Ann Court social housing site should not be used as the site for a multi-storey car park." I can only agree with this and, as I said, in my original P.184 I had gone further and said it should be sheltered housing, but whatever way, if it is social housing or sheltered, it gives the Minister for Housing working with the rest of the Council of Ministers a better fit really. If you read further down you can see the frustration why the Minister for Housing has now come to this thinking. We had the debate on P.75 in 2008 and he, like many others, were convinced that we would have more housing, more housing for our elderly. From Hansard I quote, and I think it was the Assistant Minister for Planning who was proposing the proposition said: "Approving this proposition enables us to deliver our promises and we need to deliver it now. It takes time to construct homes. If we rezone land today it is unlikely to yield completed homes until 2010 or 2011 by the earliest." Now we are in 2010 and like the Ministers for Housing, and Planning and Environment and many of the Constables, we are all very disappointed that very few of these homes have been delivered. So, I am grateful for the Minister for Housing because the Minister for Planning and Environment then went on and said: "Generally because of the lack of affordable housing homes and lack of sites the estimated total yield of these 8 sites is at least 337 homes, together with an associated community and other facilities in some case. One proposed site, Field 516, 516A and 518 in St. Saviour has the potential to provide half of this yield, the remainder of the proposed provision being spread around the remaining 7 smaller Parish sites."

[12:00]

The St. Saviour site has not been touched: has not been touched to provide half of these much needed ... and these were homes. It was going to be a village with community for the elderly. Nothing has been done, so I fully support. We have a fantastic site at Ann Court. It has always been residential. It is in the middle of a residential area. It has got high rise - De Quetteville Court across the road - and low rise, and Deputy Le Hérisier has been with the Scrutiny Officer, and I have been there myself because it is not far from where I used to live, to see a high rise development that has been changed into sheltered housing. It might not sound ideal but it has been going for over 20 years and there is a waiting list as long as your arm and all the residents are happy. You would have to follow it. There is a doorman, nobody gets in. Everyone is safe. There is a community area. Yes, it is up... but the lifts are never not working. I am talking about 24

storeys high, happy people, over 55, looked in on daily. Nobody, as the Minister for Housing and the ex-Assistant Minister for Housing has said, so many times in this House, we have elderly people who are imprisoned in their own home because they do not have lift access or they are not ground floor. There are even some who are on ground floor who have at least 6 to 8 steps to get up to them. I can think of one in St. Saviour's Road. I have constituents in there and they are lucky enough to be on the ground floor. They still cannot get out of their flats, there are steps up all the way round. It is a big, big site. I am going to finish there. As I say, I just want to again thank everybody who helped me, all the other Deputies of both the districts, the Ministers, the Minister for Planning and Environment who has put the North of Town Masterplan out for consultation, and for now seeing that we have an ideal site here. It is ready to go and it is not a place in 2010 with all what we have heard about obesity, and in the last debate, do we really want to put 800 or 900 cars in the middle of St. Helier when we need it for homes. I would be happy to answer any questions and I maintain the proposition.

The Deputy Bailiff:

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

2.1.1 Deputy D.J. De Sousa of St. Helier:

I wholeheartedly support this proposition and hope the House will. When I stood for election, on hustings night I was asked about Ann Court and about the parking there, and I stood up at the hustings and I said I did not agree with forsaking housing for car parking and still stand by that today. We live in the Island we live in and we all know the situation with housing and the demand. We need more housing and there are solutions to the car parking. In the comments from the Minister for Planning and Environment he says that he agrees with the proposition. He says that: "Residential development and open space is proposed for both the town park and the Ann Court site and the Green Street car park would be redeveloped for residential development and car parking." In the Minister for Housing's comments he goes on to say that he is also supporting this proposition - and I stood there over 12 months ago on a Scrutiny visit looking at housing and the improvements that were being done - and he agreed with a car park at the time so I am really pleased that he has changed his mind and is now backing this. I hope the House will support this. I will be.

2.1.2 Senator T.J. Le Main:

I am very pleased to follow the last speaker and I concur with everything she said apart from one. I have not changed my mind. I deliberately, as part of the team of Members of this Assembly, did not comment on the issues about Ann Court in view of the need for the delivery of a town park and I deliberately did not get involved in the issue about the car park so that it gave an opportunity for this Assembly to go out through consultation as the North of St. Helier Masterplan has proven to seek ways and means of trying to decide which way they want to go. It is now quite clear. We have always wanted Ann Court, it is a housing site. It is absolutely perfect. It meets all the criteria and in fact for many, many years when it was in decent condition we had waiting lists because it was so close to the shops and to the market, and to the Arts Centre and to everything. But the site is a housing site. It meets all the criteria for the many, many people that we have got. We have got, currently, well-over 300 families as ably stated by Deputy Martin who are, many of them, housebound and cannot move out. We have got applications on a weekly basis growing for people with disabilities with an ageing population. We have currently on this site empty houses that are boarded-up. Perfectly good homes on the north east side of the site and it is a crime to continue to see those boarded-up when we have the need for these homes. This housing site could - as stated in our report - provide up to 80 to 100 units. But I have to forewarn this Assembly that it may very well be that the aspirations in creating the town park will need some kind of funding. The ambition is, of course, to fund by building ... building on Ann Court and selling some off, but at the end of the day I do not want to be in a position where I am finding myself, like we did with the old Ladies'

College site that we had so many issues there that it was ... we were unable to build because of the conditions put on the site, and I think that I am worried about this site now that there may be so many onerous conditions put on where we may be forced to build a percentage for ourselves and a percentage set off, so that the underground car parking would make the development of the site quite expensive, and I do not want that to happen. It is an open flat site and we have got a great ability here to build affordable homes. When I say “affordable”, affordable to the public purse, affordable to the housing that we are unable to construct. I still believe that there are opportunities to provide the car parking somewhere else. I certainly was approached some time ago by the owners of the old Ann Street Brewery who were willing and are able to sell and there was a site there, in my view, that could be used for car parking. I have to say to Members of this Assembly that I am getting frustrated at the delays and I can see some more perceived delays with the Island Plan, I still cannot see in the Island Plan where the delivery of sheltered over-55 homes will take place, I still need convincing on that. I just feel that seeing this car park is now being used temporarily for 12 months I very much will be coming back hopefully after discussions with the Minister for Planning and Environment and other Ministers with plans for consideration to develop that site, and I have full intention of working with the Deputies of St. Helier in full consultation with them, and perhaps some of the St. Saviour ones because it is bordering St. Saviour in places, and I intend to work with the Parish Deputies to make sure that the plans that come forward are going to be plans that are going to be ideal for the people that we want to house. As I say, I support wholeheartedly the proposition of the Deputy of St. Helier, Deputy Martin, and I urge Members to allow us now to work forward, to try to find a solution to the town park in other areas. I certainly will be giving my full support to the Minister for Planning and Environment and to the other Ministers - and in particular the Minister for Treasury and Resources who at the end of the day has to find the cash. But I will be working very hard with them to make sure that we can come to the right decision, the right decision being currently units of affordable, buildable accommodation for elderly people on the site, but also to work with them to provide what 16,000 people wanted, and still want, is to provide an open green space in St. Helier.

2.1.3 Deputy S. Power of St. Brelade:

I did not expect to follow my Minister so quickly. In this Chamber, I think it was about March or April last year, when the Minister for Planning and Environment suggested that he was going to carry out masterplan review for the north of St. Helier. I expressed reservations at the time about that and I still do. The preservation of the Ann Court site for social housing is important. This is classic, in my view, social housing territory and the Ann Court site is important to aligning and changing the stock of new housing that the Housing Department wants. It is adjoining De Quetteville Court and, as you will know in the paper, we have very exciting plans for that right now. So the department regards this as a core area of social housing in St. Helier. The Minister and I are pleased that the St. Helier Deputies are on board, and I thank Deputy Martin for doing what she has done. I might explain to Members also, that I specifically asked Deputy Martin to delay this debate in January because I was seriously minded to amend this, to ring fence even further the future of the Ann Court site, but I was dissuaded from doing this by my Minister and senior officers of the department. The principle, as it was and is now, of building a multi-storey car park on the Ann Court site would only work if the whole of the island site was available, and it is not available. As my Minister as pointed out, there is a beautiful row of B.L.I. (Buildings of Local Interest) terraces facing De Quetteville Court and we are minded to keep those and get them reoccupied as soon as possible. The prospect of an island car park site on Ann Court would only work on that basis. That would mean demolishing those B.L.I.s and demolishing Toddy’s Bar, that is simply not an option unless Toddy’s Bar suddenly becomes the busiest bar in Jersey. The principle then of strapping a multi-storey car park on to the back of a row of B.L.I.s is simply not acceptable and that is why I am so grateful that we have got a chance to discuss this petition and move it on. So I welcome the proposition and I really hope the Assembly will support this

unanimously and that the Housing Department can get down to work with the Planning Department as soon as possible and design a new state-of-the-art development on Ann Court.

2.1.4 Senator F.E. Cohen:

I support this proposition but to assist Members I would like to outline how this proposition sits within the North of Town Masterplan. I would firstly like to say it was very kind of Deputy Power to credit me with the concept of developing a masterplan for the north of the town, however he is being very modest as it was, in fact, his idea. He suggested it to me in the first place. But I think it has been a worthwhile exercise, albeit that we are still at the concluding phases. The draft North of Town Masterplan has demonstrated that there are better ways to replace the car parking that may be displaced from Gas Place and Minden Place than to build a large above ground multi-storey car park at Ann Court which will blight the environment. The draft masterplan raises the possibility of some residential development and public open space for both the town park site and Ann Court. The intention is that Green Street car park would be redeveloped for residential development and car parking. The overall proposals in the draft masterplan are designed to be self-funding although any significant reduction in development yields, notwithstanding the £10 million voted to the town park project last September, could significantly affect that position, and that is a very important matter. The final decisions clearly will be left to this Assembly but we are making assumptions within the masterplan at the present time that sites will deliver development profit, and while the choices the House may make may very well be that some of the sites will not be developed to deliver development profits, we do have to understand that there will undoubtedly be a financial effect of making those decisions albeit they may be quite appropriate decisions.

[12:15]

The need for replacement car parking is essential as many local residents, shoppers and commuters presently use Gas Place and Minden Place car parks throughout the day. These car parks also have more overnight residential use than any of the other major public car parks in the town. The draft masterplan proposes that there should be 145 predominantly residential spaces and 75 public parking spaces as part of the town park redevelopment. Ann Court will deliver 240 predominantly underground shopper car parking spaces and 90 residential parking spaces and Green Street would be redeveloped to deliver approximately 825 public car parking spaces and 70 residential car parking spaces. Effectively that would mean that the majority of commuter car parking will be provided at the Green Street car park. In the event that the proposal to construct housing on part of the proposed town park site is unacceptable to the States it will still be possible to provide a reduced level of car parking beneath the half-in and half-out deck, although this could not be funded through development receipts. It would therefore mean further funds would need to be made available. Consultation on the draft masterplan finished on 5th January and the comments are being reviewed at the present time and I will shortly be producing a document summarising the comments that we received. I intend to lodge a proposition on the reviewed and probably amended masterplan for debate later this year. Overall, using the Ann Court site for housing meets the new draft Island Plan strategy for concentration of new development within the built-up area, it will provide much needed housing and will deliver the regeneration aspirations outlined in the draft North of Town Masterplan. I therefore support this proposition and urge Members to do the same.

The Deputy Bailiff:

Minister, I hope I will not be ambushing you in any respect but, as I recall, the Planning Law it is for the Minister to bring forward development plans of this nature and so I take it that you read paragraph (b) of the proposition as a request to you and not to the Council of Ministers to bring forward these proposals.

Senator F.E. Cohen:

That is perfectly correct, Sir, thank you.

The Deputy Bailiff:

Does any other Member wish to speak? I ask Deputy Martin to sum up.

2.1.5 Deputy J.A. Martin:

Obviously I will be very brief; everything was negative. I really thank the Minister for Housing and his Assistant Minister and the words that they will be working with the Deputies of the area because we all want to bring the town park and the housing into fruition as soon as possible. The Minister for Planning, again, mentioned different ways to provide parking. We also, on the Town Park Implementation Group, are looking at other areas; most are mentioned in the North of Town Masterplan. The difference a day makes in politics. The difference a year makes in politics; and it is because we are where we are. We are in desperate need for this housing now and as the Minister for Housing and the Minister for Planning and Environment have just echoed, we can get going on this site and it is something we must do. With that, I maintain the proposition and I ask for the appel.

The Deputy Bailiff:

The appel is called for and I ask Members to return to their seats. The vote is on whether to agree that the current plans to use the site of Ann Court, St. Helier, for a multi-storey car park should be abandoned and requesting the Council of Ministers to bring forward proposals within the North of Town Masterplan. I ask the Greffier to open the voting.

POUR: 46		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				

Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

3. Draft Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day) (No. 5) Act 201- (P.16/2010)

The Deputy Bailiff:

We now come to projet 16, the Draft Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day) (No. 5) Act lodged by the Minister for Home Affairs. I will ask the Greffier to read the draft Act.

The Greffier of the States:

The Draft Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day) (No. 5) Act 201-. The States, in pursuance of Articles 114(2) and (3) of the Police Procedures and Criminal Evidence (Jersey) Law 2003, have made the following Act.

3.1 Senator B.I. Le Marquand (The Minister for Home Affairs):

This is an Appointed Day Act in relation to certain articles in Part 5 of the Police Procedures and Criminal Evidence Law 1993. I believe that it is right that I give some background to the Members of this Assembly so they can understand the problems that have arisen and which still exist in relation to the implementation of Part 5 and the reasons why I have brought forward an Appointed Day Act picking out certain parts of Part 5, which I believe can now be brought into force. The basic problem is that when Part 5 was passed by this House... Part 5 deals with safeguards in relation to a length of period that people can be held in custody before being presented before a court. Indeed the length of period that they can be held before being charged and the length of period between charge and being brought before a court and also deals with issues of bail prior to charge. The basic problem was that when the law was passed the House was told that there would be no financial or other resource implications. This was completely and utterly inaccurate because the bringing into force of Part 5, as it currently exists - the whole of it - would require a Magistrates Court to be available to sit every Saturday and, indeed, a magistrate to be available to sit in his or her court at any time of day or night in order to deal with applications for extension of time periods for people to be held in custody. This, as the law currently exists, would be very expensive because you would have to have different officers, including magistrates, available 24/7, as it were, against the possibility of being required to sit. When similar legislation was passed in Guernsey they found that the magistrates had to sit approximately every other Saturday morning. So there were problems of resourcing and the cost. A deal - if I may put it that way - was brokered between a former Attorney General and a former magistrate which would have made this practical but that required coming back to the Assembly with amendments to the law and those indeed were drafted. Unfortunately that deal seems to have slightly come unstuck because there remain 2 principal areas of difficulty. One is finding staffing of judges to sit and a second one, which is still unresolved, is the need for people to have legal representation as part of the process. So there are still difficulties,

I am not hiding that from this House. I am going to be bringing back, I hope, later on this year the amended form of Part 5 and hopefully we can then deal with the problems with the assistance of the senior judges and hopefully the legal profession, but it is not going to be easy. In the meanwhile, prompted by the Deputy of St. Martin who is somewhat wont to prompt Ministers for Home Affairs on such matters, I have brought forward today a proposition which would have the effect of bringing into effect those parts of Part 5 which will not cost a great deal of money and which deal with bail provisions. I am now going to turn to the actual legislation. If Members would turn first of all to page 7 of the proposition, they will see in outline the Appointed Day Act and they will see that the main issue is in Article 2 of that, that in 3 months from today, if we pass this today, that Articles 30(1), 31, 44 and 45(1) would come into force. If Members would like to then turn back 2 pages to page 4 they will see that I have set out there the text of those various Articles. Article 30: "Conditions of bail. Where a person arrested for but not charged with an offence is released on bail by a Connétable or Centenier or pursuant to this part by an officer of the force the bail may be subject to petition only for the person's appearance at a police station or Parish Hall Inquiry on a day and at a time notified to him unless he previously receives written notice from the police officer who granted bail that his attendance is not required." What this means is that if a person is being investigated but has not yet been charged then both a Connétable or Centenier - I know Connétable is academic because of the way Connétables actually act now, but I am dealing with a piece of legislation passed in 2003 - or an appropriate officer of the police force can effectively warn them. The word "bail" there does not include the taking of a sum of money. It is what we would normally call a formal warning to someone to appear later on at a particular place at a particular time so that the investigation can continue or so that they can be charged. That is Article 30(1). Article 31: "Bail on arrest. Where following a person's arrest for an offence it appears to the custody officer that the inquiry into the offence cannot be completed within a reasonable period he may release that person on bail." This is back-up to the first Article and specifies it is the custody officer who makes the decision. Custody officer is normally a sergeant who has particular responsibility for the custody of people who are in custody at police headquarters. Article 44: "Power of arrest if failure to attend a police station when required to do so. (1) A police officer may arrest any person who having been released on bail under this part to attend the police station or Parish Hall Inquiry fails to attend as required. (2) A person who is arrested under this Article shall be taken to a designated police station as soon as practical after the arrest. (3) For the purpose of Article 28 subject to the application in paragraph (2) an arrest under this Article shall be treated as an arrestable offence." What this does is say what can happen if a person is released on bail on a warning but does not attend. It then gives a power of arrest of the person for having failed to attend. So we do not have the situation that could arise otherwise at the moment where a person has been released because investigations continue and then the police have to re-arrest him, as it were, which they are loathe to do when a person has just been released in the middle of the proceedings. It provides continuity. A person who is released who fails to do what they should do can then be arrested. Article 45(1): "Nothing shall prevent the re-arrest of a person released on bail to attend at a police station if new evidence justifying a further arrest has come to light since his release. This is a for the avoidance of doubt provision, so in addition to the power to arrest because a person has not attended when they should do but there is a power to re-arrest if there is further evidence. So that is the provision. I have been in consultation with the States of Jersey Police and with the Honorary Police for some time in relation to this and they are now all happy that this should go ahead, but they have been given 3 months from today in which to bring it into effect. Finally, Article 3 is a purely very technical matter because the previous Articles make reference to the term "custody officer" and a definition of that is in other parts of Part 5, which we are not bringing in today and so we had to have a definition included in this to make sense of that. I move the proposition.

The Deputy Bailiff:

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

3.1.1 The Deputy of St. Martin:

I very much welcome this piece of legislation. In fact, I compliment the Minister on coming forward with it. He will recall the very first question I asked of him upon election and we are almost there. One has got to ask why it has taken - no reflection on this particular Minister - but why has it taken so long for an Appointed Day Act to come when it is quite reasonably not that complicated. In fact it echoes what is elsewhere, certainly in the U.K. and certainly is to be welcomed and I do not need necessarily to dwell on it, but at the same time, if you can bail after charge why could you not bail before charge? It seems so simple and yet it has taken so long to come to the States. What I would ask, it is essential that we do not delay justice because we bail someone, and on Friday I am going to a review hearing on a suspension where someone has been suspended now for months on end, and there is no charge, no nothing. The stress, the hurt that has been suffered by that particular person. We have got to put an end to it and slowly it is coming to effect, and I hope that this bail business may well speed the whole process up.

[12:30]

But there is one question I want to ask and I did brief the Attorney General before he was coming this morning, and it was just to tidy up the issue about the Parish Hall Inquiry because at the moment, as it stands, I take it that a Parish Hall Inquiry means that of course if someone is warned for a Parish Hall Inquiry they have not been charged. Once they have been charged the bail effect will come in but if they are warned for a Parish Hall Inquiry they do not go. This particular piece of legislation will not be applicable and I ask maybe if the Attorney General could just clarify the situation. If someone is warned to attend a Parish Hall Inquiry and they do not go that there is no power of arrest on that particular aspect.

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

Yes, I think I can give that confirmation. The provisions that it is proposed are brought in with this proposition apply after arrest and a simple warning to attend a Parish Hall, for example, by a Centenier who is there when a minor offence is committed would not give rise to the power of arrest if the person did not apply the procedure that applies up to now, I think, would be that which continues.

The Deputy of St. Martin:

Can I thank the Attorney General for clarifying that situation and just end on, again, complimenting the Minister for coming forward with it and ask that possibly now the new Attorney General, as titular head of the Honorary Police, will ensure that the Honorary Police are absolutely aware of their rights because we do not want the confusion where they may be thinking they can bail when they do not have the right. But I would ask that to be done and, again, urge Members to support it. It seems to make sense.

3.1.2 Deputy P.V.F. Le Claire:

I think it is quite amazing really, as pointed out by the Minister in his speech, that there was no realisation that the financial and manpower implications were going to be significant. For the Minister to come today before us and tell us that they have suddenly realised that there were suddenly going to be financial and manpower implications strikes me as rather strange, if not surprising. I understood from taking a brief overview of these sorts of things, as one does, that there were issues about human rights accesses and the availability of the courts to those arrested and charged, *et cetera*, over the weekend period. So, on the one hand I am very surprised that there is an admission now that there were significant costs realised, because it certainly did not surprise me that there was going to be any at the time, and I am just wondering, as it has not been raised by the Deputy of St. Martin, who has been on this trail for some time, whether or not this human rights aspect has been thoroughly worked through into this new legislation that we are approving today.

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

I may have missed something here but I would just like the Minister if he could clarify for me under Article 31 whether this discriminates between minor and serious offences. The reason I ask this is what is reasonable time and what if a dangerous person, for example, a P.S.P.D. (probable schizotypal personality disorder) - for example, like Michael Stone - would this not apply because that would be much more sort of a serious type situation?

The Deputy Bailiff:

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

3.1.4 Senator B.I. Le Marquand:

Firstly, in relation to the question of delay, I started work on this quite soon after the question was asked by the Deputy of St. Martin and it has been a course of some frustration to me as to the difficulties that I encountered, which were numerous for something which appears to be so simple. There was a need to consult with the various different groups who would be affected by this and make sure they would be up to speed but, in fact, an issue arose as to what bail meant in relation to this, as to whether or not it included the taking of money, and there was quite a substantial delay in seeking confirmation as to what the position was in relation to that so that we were clear as to what the powers would be of the different bodies when it came into effect. There were then other issues of drafting which arose whereas initially we thought we could bring in just one or 2 parts it became more complex and other parts had to be brought in. I am personally frustrated that what I thought was going to be a very simple matter I could bring in in 2 or 3 months actually has taken about a year. So there it is. In relation to the Parish Hall Inquiry points, the Attorney General has correctly explained the position that the question of being warned to a Parish Hall Inquiry is only in the context of somebody who was initially arrested and subsequently is being released for continuation and will not relate to a person who has never been arrested. That is the point and that is what was said. In relation to how the situation arose in relation to manpower and other financial considerations, I can only speculate. I have to say that in one of my many previous posts that I have held, namely that of Judicial Greffier, I was constantly frustrated by the assumption that was being made that somehow the courts were infinitely stretchable and if you gave them more applications to deal with, *et cetera*, there were no cost implications, and I can only assume that something like that has happened here in relation to court. It was assumed by the courts that somehow they would just do it. But there is no doubt a major mistake was made and if we had brought this in as it was originally envisaged the estimations of costs that were made by the Magistrate's Court Greffier, and looking at it this way, it would cost more than £500,000 a year in terms of cover, which is totally unacceptable. In terms of the human rights point, Deputy Le Claire is absolutely right. Part 5 is vital in terms of our compliance with human rights because it sets timescales. That does not mean that we are substantively in breach of human rights. We may be technically in breach of human rights in a sense that we have not got it written down, provided that the police and the magistrates ensure that we do not go over the 96-hour total period from the point of initial arrest to the point of first presentation before a judge. In relation to the question of Deputy Jeune, in relation to dangerous people, of course this gives a power to warn people where that is appropriate. If a person was thought to be dangerous and there was a necessity to hold him in custody for longer period then that is exactly what the rest of Part 5 deals with; the extension of time periods for holding a person in custody prior to charge upon the basis of once we get beyond the 96 hours of presentation before the court. I think I have answered those points and I maintain the proposition.

The Deputy Bailiff:

The proposition is to adopt the Draft Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day) (No. 5) Act. The appel has been called for and I ask Members to return to their seats. I ask the Greffier to open the voting.

POUR: 43		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

4. Public Holidays falling at the weekend: review (P.19/2010)

The Deputy Bailiff:

We now come to P.19 - Public Holidays: falling at the weekend - review in the name of Deputy Le Hérisier and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether of opinion to request the Chief Minister to review the current provisions in relation to public holidays that fall at the weekend and bring forward for

approval within 6 months amendments to the Public Holidays and Bank Holidays (Jersey) Act 1952 to make permanent provision to grant alternative days as appropriate for these days.

4.1 Deputy R.G. Le Hérissier:

I hope - famous last words - this will be brief but as I was explaining to a Member just now, obviously the substance will come in with the Council of Minister's report. I was asked, I should add publicly, by Deputy Tadier would I defer mine until we had a debate on his but my feeling was it does not cut across his because his - his third proposition - is to do with giving a day this year. He is particularly concerned in giving the day this year. There is no way my proposition addresses that issue or indeed, I imagine, the Council of Minister's reply will. I think it is very straightforward. I do not want to see the House get into the mess that we have had ever since the Boxing Day debate and the following Liberation Day debates, and I look forward, if the House approves it, to some clear proposals from the Council of Ministers so that the situation is at long, long last settled.

The Deputy Bailiff:

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

4.1.1 Senator P.F.C. Ozouf:

I am very pleased to say that the legislation that Deputy Le Hérissier is seeking is already being considered and, as I understand it, drafted and it will deal with all of the issues that he raises and be brought to this Assembly as soon as possible. There will be, no doubt, some controversy about some of the aspects of it but I think everybody from all sides of the debate and the Assembly wants to create some certainty in relation to public holidays, bank holidays and any other arrangements and where they fall on a Saturday or a Sunday, so we support the proposition and will bring it as soon as possible.

4.1.2 The Deputy of St. Martin:

It is only because what the Senator has just said, it has already been drafted. I would hope that there would be some consultation before it is drafted so we can get a good idea of what the people outside this House are thinking before we come to the House with whatever is being drafted. So I would hope there would be that consultation first.

The Deputy Bailiff:

Does any other Member wish to speak? I call on Deputy Le Hérissier to reply.

4.1.3 Deputy R.G. Le Hérissier:

I think the points are both well made and I let the case rest.

The Deputy Bailiff:

The proposition is to request the Chief Minister to review the current provisions in relation to public holidays and all Members in favour of the proposition kindly show. Those Members against. The proposition is carried.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

5. The Connétable of St. Mary (Chairman, Privileges and Procedures Committee):

Hopefully also quite brief. The business for the forthcoming meetings is as per the lavender sheet with the addition of P.28/2010 on to the 20th April sitting. This is the Establishment of a regulatory and licensing regime for e-gaming for Jersey, lodged by the Minister for Economic Development.

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

May I bring P.26 - my proposition about the principle of the minimum wage - and request that it be brought on 23rd March. I know it is relatively shortly notice but we have recently discussed the principles and it seems very straightforward and we have got a very light agenda on 23rd March.

5.2 Deputy I.J. Gorst:

Just to say if we are to bring it forward I just want confirmation that it would allow me to amend it once I have considered it more fully.

5.3 Senator P.F.C. Ozouf:

May I just say, I have not had the opportunity of consulting with Deputy Gorst on this, but it seems to me that this is quite an important issue and does the Minister for Social Security not believe that he needs to be consulting with the body that advises him on these issues prior to a debate and other Ministers have a 6-week lodging requirement, Back-Benchers have 2, this seems to me to be extremely fast-tracking an issue which does need mature advice of which the Minister for Social Security needs to get. So I would propose that it maintain later unless the Minister for Social Security does not say.

Deputy I.J. Gorst:

No, that is entirely why I wanted to know that I would have time to amend it if necessary because I will need to consult with the body to understand implications, particularly with regard to the original setting up of the Forum in the first place and review the legislation, the decision which the Assembly made at that point. It needs to be taken in good time, but following good order.

The Deputy Bailiff:

Deputy Southern, you have had comments made, do you wish to make a formal proposition?

5.4 Deputy G.P. Southern:

Notwithstanding what has been said ... go on, let us move it somewhere else then. I will lodge it for 20th April, if I may?

The Deputy Bailiff:

It is already lodged for 20th April. If no other Member wishes to speak I take it that the arrangements for public business as set out by the Chairman of Privileges and Procedures are agreed. We have now reached the end of business. The adjournment is proposed and the States now stand adjourned until 9.30 a.m. on 23rd March.

ADJOURNMENT

[12:45]