

STATES OF JERSEY

OFFICIAL REPORT

THURSDAY, 17th JULY 2014

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[9:31]

The Roll was called and the Greffier of the States led the Assembly in Prayer.

PUBLIC BUSINESS – resumption

1. Island Plan 2011: revised draft revision – approval (P.37/2014) – second amendment (P.37/2014 Amd.(2))

The Bailiff:

So we now return to debate upon the Island Plan and particularly the second amendment lodged by Deputy Le Hérisier. Perhaps if Members will forgive me, I will just remind Members we still have quite a lot to do and we only have 2 days in which to do it so I do invite Members to consider carefully (a) whether they need to speak, and (b) if when they do speak they can keep their remarks as concise as possible. In particular I repeat what I said last night, we had a very wide-ranging debate on the Connétable of St. Clement's amendment about the need for housing and so forth. Members may feel that that particular issue was very well ventilated and does not need to be repeated on similar amendments in future and perhaps they could concentrate on site specific points just bearing in mind of course the points made on housing. Very well, so we will return to the debate and I see next the Minister.

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

As with the matter that we considered yesterday I speak in relation to this amendment with some reticence. I have already set out why I am bringing forward my housing strategy which is primarily focused on urban land that is owned and/or managed directly or indirectly by the States. This, I think, is a robust approach but we do need some short term supply of affordable homes to help ease the situation now. I acknowledge the importance of protecting the countryside and where I have brought forward land for rezoning I have sought to identify those sites which have already been subject to some form of development, mainly on the edge of existing Built-Up Areas as having the most potential to contribute to the Island's housing needs. Longueville Nursery is a former garden centre site that is well related to the existing Built-Up Area. This site has the potential to contribute between 25 and 30 affordable homes without undue impact on the character of the countryside in this area for local infrastructure if designed properly. The independent planning inspector is also supportive of proposed rezoning of the site. A number of detailed points are raised in the Deputy's amendment and I can respond to some of these as follows. He asks, why is the site being reconsidered for housing again when it was resisted in 2011? No land was rezoned for housing in 2011 and the mechanism that was to deliver affordable homes, Policy H3, has not been implemented. The need for affordable homes remains critical and the rezoning of a limited number of sites can help to provide a short-term supply of much needed homes as are previously set out. He also asked, what about restoration to agricultural use? As with all former glasshouse sites proposed for rezoning they all could be returned to agriculture and this is not disputed. There are potential complications, however, on the site as acknowledged by Deputy Le Hérisier given that it has been used as a nursery or garden centre with a retail function since the early 1980s. But setting these aside when considered against the context of the need to provide affordable homes the location of this former glasshouse site makes its use for affordable homes a considered choice and perhaps better than others that are more remote or in parcels of greenfield land. In reply to traffic concerns, it is accepted that the development of this site for housing will undoubtedly generate extra traffic. This, again, is not disputed. The fact is that when the site was in active use as a garden centre it also generated traffic. If developed for housing the pattern of traffic flow is likely to be different in terms of the volume and the time of peak flows but the traffic will be roughly similar. The key issue with regard to traffic is that owing to the site's location on the edge of the Built-Up Area there is much better relative access to services and a greater opportunity for residents

to travel by bus, bicycle or on foot. The Deputy also asked about the contribution to housing supply. It is acknowledged that in terms of overall supply the potential yield for homes from the site of between 20 to 30 homes is relatively small but still nonetheless significant. In the event that homes are built they will all help to ease the demand for affordable homes and will undoubtedly be of considerable value to those in housing need who are able to live in them. It is also important that where land is rezoned for housing the optimum level of development is secured, which is why the proposed entity and yield of development is greater than that previously considered for the site. So overall it is considered that this level of development could be sustained here without undue impact on the character of the countryside in the locality. However, there are other issues to be taken into account other than the quantitative ones. In comments that I made in the previous debate, I did outline the qualitative difference between urban regeneration schemes which are generally compact. That means they do not stretch out as ribbon development does along main roads and urban regeneration is of a quality that allows neighbourhoods to be mended in terms of the addition of extra facilities and amenities that perhaps did not exist there before. Before moving on and finishing my speech I must indicate to the House that in terms of ribbon development this particular development that is being proposed here is pretty much the same thing. It does not, in my mind, represent best style of development, which I think is urban regeneration in any event, but we are where we are. Bolt-on housing estate mentality, as I tend to term it, which has been evidenced in the past with the proliferation of housing estates that do not do very much in order to enhance the quality of the localities that they are built in I think are a sad function of our planning history in the past. It is with this in mind that the Island Plan, as put forward, is trying to make amends, if you like, in order to square circles in terms of having to house extra population while at the same time accepting that more houses and greater density should happen on the areas that are already built-up, but not to squash people into rabbit hutches and to expect them to be happy about it. The whole thrust of the policy is to encourage a betterment in the Built-Up Areas, larger spaces, more flexible spaces and more amenities, more services that you can only provide and should only provide in areas that do not have a large amount of land to be wasted. These things have to be, inevitably, provided in town and Built-Up Areas. So the final comment is that the name of the settlement area is Longueville, as we know. Its French name adequately describes its ribbon development style. In some ways I think there is a case for saying that notwithstanding the requirement for this short term addition of extra houses I think there is perhaps a counterargument that I would ask Members to consider as to whether or not Longueville indeed should be made any longer. It is not really right that I go much further than that other than to say that in doing my duty and bringing forward this proposal to be discussed by the House I will be bound by the decision taken but I would hope that those considerations that I have mentioned are taken into account so that we can examine the issue in the widest possible terms before making this important decision.

Connétable S.A. Rennard of St. Saviour:

Excuse me, could I have a point of clarification from the Minister for Planning? He says that it is for affordable homes.

[9:45]

I was under the impression it was social housing and affordable homes and the accent went on social housing and just a few affordable homes. Am I wrong?

Deputy R.C. Duhamel:

I think there may be some misunderstanding with the affordability section which is part and parcel of the proposals that I am bringing forward in the Island Plan, and I will have a lot more to say on that when we get back to the final reading. In essence, affordability is tied-up to provide not only some social houses for rental but also housing for affordable purchase in a ring-fenced estate. So it

is for both and I think if Members re-read the section on the definitions of affordability I think that will put their minds to rest.

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

I was just going to ask, given the exceptionally fair and well-balanced presentation of the Minister for Planning and Environment and his obvious reluctance to pursue this proposal would he be prepared to withdraw this part of the plan?

Deputy R.C. Duhamel:

There were some considerations yesterday for the arguments we had there and a number of Members felt that perhaps it would have been right for me to have done that and others expressed the point of view that that would have taken away their opportunity to debate the issues fully in this debating Assembly, and to put it on record for the public as to which way they were wanting to go. So I think it is only right that notwithstanding the comments I have made I am happy that the Deputy has noticed that they are fair and balanced. I am hoping that the comments that I have made will widen-out the discussion, as I mentioned earlier, so that people can be happy with whatever way they do finally vote.

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

For my sake I would certainly rather we did not have the debate and we saved this precious land for the future [**Approbation**] but if we have to have the debate ... it was a refreshing speech from the Minister for Planning and Environment. I was going to describe it as ambivalent but as it went on it was fairly clear that ambivalent does not do the job and the Minister is definitely troubled by what is frankly an unsustainable approach to housing. He described it as a short-term fix. Of course the tragedy is if we develop this site it is a long-term loss of what is effectively currently being used as a nursery. It is not even glasshouses. We are talking about an area which is already contributing to the landscape, which the urban areas of St. Saviour desperately need. As I said in my speech yesterday on the proposal for St. Clement, the Minister knows what sustainability is. He knows that it is unsustainable to create housing in places where you force people to use the private car to add to the traffic along the Longueville Road. For the sake of a couple of dozen homes I can point to a number of brownfield sites which have remained undeveloped in St. Helier which could quite easily make up these numbers. Of course it requires some savvy, some determination, to release these sites for housing. Of course with a risk of repeating myself, and you have asked us not to, but apartment living does not have to be cramped. It does not have to deny residents access to balconies, access to open space. In fact I envisage a day where apartments will have more space available to their residents, as well as restaurants; apartments will have more living space available to their residents, more amenity space available than some of the housing ... the Minister called them rabbit hutches. Some of the inferior housing we have created in our suburban areas are frankly far too small and give the occupants of the homes very little space at all apart from all the other advantages of living with access to facilities, with access to restaurants, which I mentioned earlier, and all the other facilities that you find in the urban community. So I urge Members to save this small piece of undeveloped land in a community which has already got really far too many dwellings in it and to do something which is sustainable rather than unsustainable in their voting on this amendment.

1.1.2 Deputy J.A. Martin:

Just briefly, because after the Minister for Planning and Environment and my Constable ... and I will not have a go at my Constable because he is a very good Constable and I absolutely agree with what he said, to not prolong this debate. Like you said, I really do not feel the Minister for Planning and Environment's heart is in this. I do not think it is the right place and I just really think, and with the foot stamping from what the Constable of St. Helier said, I really urge the

Minister to not prolong this debate and absolutely take this site out and then really have to rethink how we tackle housing; 20, 30 will not solve the problem. We have got 200 or so in St. Clement coming. There are many permits to develop out there and developers are not doing it. Do you really need these extra in St. Saviour. I urge the Minister for Planning and Environment, curtail this debate now and pull this out of the Island Plan so this amendment falls anyway.

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

I find it ironic that we are debating this site today on the same day that R.98/2014 is published and I notice on page 30 it asks us to work together with the Parishes and other agencies to co-ordinate efficient and effective social community services and yet here we are practically doing the opposite. I rose to speak because I was concerned with the way the debate went yesterday and I am hoping it does not go that way today. Then I had the feeling - and I hope I was wrong - that we were adopting the same sort of attitude as we did in 2002, where some Members were saying: "Yes, well, I will vote for this. I know it is going to cause social problems and that sort of thing but it is not in my Parish so it is not going to affect me. It is somebody else's problem." I did get that feeling from one or 2 Members yesterday and I hope I am wrong and I would urge Members not to go down that route today. I did say yesterday - I do not think any other Members really picked it up - there are, as I know as a member of the Planning Applications Panel, hundreds, I do not mean 100 or 200, there are hundreds of planning permits already in existence. Well, hundreds if not thousands of properties to be built but they are not being built at the present time; the developers are sitting on them. I do not see those houses being talked about. They are already in the pipeline. Perhaps we should be encouraging those developers to move ahead rather than putting concrete over greenfields and causing the social problems that arise from that. On this specific site I have to say I agree with the proposer of the amendment. Deputy Le Hérissier yesterday spoke of it being a wedge. We are fully aware of what sort of houses work in St. Clement, I have to say, because this is a wedge into the countryside and if this is approved I can guarantee, I would put substantial money on the fact, that in another Island Plan we will want the field next to it and we will want the field just behind it and eventually you have got, as we have got in St. Clement, a whole load of housing estates altogether. It is almost like a town now. I hope Members understand that and will take those issues into account rather than, just as I said a few moments ago, thinking: "Well, we know it is going to cause problems with traffic and schools and that but it does not affect me and if it was in my Parish I would oppose it but because it is in there it will not be in my Parish therefore I will support it." I hope that attitude does not prevail.

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

I thank Deputy Baudains for his speech and so I have to trim my speech a little. I did send Members around, in an email, a picture of the site because I do not think the picture in Deputy Le Hérissier's report gives an adequate overview of the area that we are talking about. Now, Deputy Baudains said that it is not so much about this site, although that is important, but it is also what else we come back for. I do sit next to Minister for Housing and he said: "No, no, no, we will not come back", but look at the site. Look at the triangle between Longueville Road, Rue St. Thomas and Rue Messervy. It is already starting to happen and again slowly over time we are eroding that triangle. Now, the Minister for Planning and Resources said that this site was relating to the Built-Up Area but again if you look at the image that I sent Members it is in between 2 green fields. This is not any other site that you can say: "This is clearly in an area of an urban development." It is between 2 green fields. This is my main objection to the site and there is an argument of, well we are only going to come for half the site at the moment - at the moment - and what next? What next? Again, for St. Saviour, which I will point out that the interim population policy 5 of the 6 St. Saviour representatives, including the Minister for Planning and Environment, voted against increasing the population policy because we know in St. Saviour, that we are the ones who carry

the brunt of it and this is exactly why we are having this rezoning proposal today. I would urge Members to support Deputy Le Hérissier's amendment because the Chief Minister yesterday spoke about doing what is important for our Island but protecting areas like this is just as important and is just as needed ... that is bad English, never mind. It is just as important. So, again, I urge Members to look at the map. Do not just look at the one that the department has provided, zoom out. Look at the impact of what has already gone on around it. Look at Le Bernage; look at New York Lane. The development there is slowly eating away at that area and when are we going to say, enough is enough? When are we going to put up a line and say: "Stop coming for land in St. Saviour", when we spoke yesterday about all the impact and everything that the Parish has recently provided for the Island. It is not just for the people of St. Saviour. It is for the Island. It is a contribution to the Island housing stock. With that I ask that Members support Deputy Le Hérissier's amendment.

The Bailiff:

Does any other Member wish to speak on this amendment? Every Member so far has supported it but ...

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

I think it is the first time I have spoken in the debate anyway. The Connétable of St. Saviour, along with the Deputy of St. Saviour, and the representatives have spoken against this. They know their Parishes. They know their needs and where the pressure points are and it sounds to me that we have got a nursery that is operating there at the moment, so it is not as if it is a derelict site. It is working. We have got another couple of debates after this, one in St. Martin, which I know the Parish is supportive; one in St. Ouen, which I believe the Parish is supportive of. The country is looking to take additional pressure off the town and St. Saviour and St. Clement. I would say this one has its views and it is an open lung. I would leave it as an open lung. Do not go down the road of putting a quart into a pint pot and creating more problems. Further down our agenda we have got areas which the Connétables and the representatives in this Chamber have obviously done the work and are looking forward to hopefully getting the support of this Chamber to move forward and take some of the pressure off the centre.

1.1.6 Senator S.C. Ferguson:

Yesterday Senator Le Gresley spoke of what is the law of unintended consequences when he spoke of joining the dots. As we discuss yet another site for housing I should perhaps remind Members that the Minister for Treasury and Resources is talking of more fiscal stimulus in the form of construction programmes. We should remember that another fiscal stimulus programme will have similar effects to our first programme. We do not have enough construction workers to cope with such a programme and we can therefore expect immigration pressures with all the attendant income support and housing effects in due course. Perhaps we have scheduled this debate incorrectly. It should perhaps follow the Budget. Alternatively we should amend the Employment Law so that short-term contracts are enforceable. Time for joined-up thinking in the Council of Ministers I think. Time to join up the dots. Will Members remember this debate in a couple of months' time when we debate the Budget and the capital programme? I hope so.

1.1.7 Deputy M. Tadier of St. Brelade:

I am not speaking on everything by the way but I think these comments are relevant at this stage. The issue I have got - and I am not a planning expert, people will realise that - is that we are being told that this is the Island Plan but I do not see any joined-up plan coming forward through all of it.

[10:00]

We have had talks about ... well, first of all when you rezone land, it does not automatically follow that the next day houses will be built on that land. It seems that there is a lot of arbitrary process

that goes on so you rezone land in the hope that in the future at some point, not by magic but perhaps by osmosis, a certain development will be built and that may be affordable housing, it may be a certain split between affordable, social or even private depending on what deal we have to do with the developer. It does not seem like a particularly good way to plan for the future. When we have the town Constable, I have got a lot of sympathy for his views because I think we have a lot of the same environmental perspectives, is that it is fair enough to say, let us save all the green fields in Jersey, let us put all the building in town but of course the buildings that we have in town will all be top notch, they will all be salubrious because we know that nobody builds small flats in town. All the flats in town are luxury and they have all got a big field on each of the balconies on each of the floors. That is ridiculous and even if that were to be a possibility, even if it were that developers were building very spacious apartments in St. Helier - like those in Gloucester Street, with lots of balconies and roof gardens on them - that is not going to happen by chance. There needs to be an Island Plan which does not come down to an arbitrary States decision often on the flick of a coin and: "Shall we build in this green field in St. Saviour, in St. Clement, in St. Mary perhaps? Yes, no, oh well, if we do not do that there will be consequences." It is not a particularly good way of doing it and so the issue I have got is with this Island Plan, I do not see an Island Plan, I see a series of disconnected decisions which we do not know which way we are going to go which, down to the oratory of the speaker on the day, can decide whether or not a field gets developed or not and even then when that rezoning happens we do not know what is going to go on there because as Deputy Baudains, who does have the experience, tells us planning permits can be sat on. So what is the solution? Well, let us take this example; of course you are going to get people saying we need to protect green fields and definitely need to protect them in my district, of course people are going to say that. Then there are fields around it; we are worried about the domino effect, but there is nothing to stop the States saying, we only want to develop that field. If you really want to protect the fields around it, what is to stop the States buying those fields around and putting covenants on them? It also seems to me that we want to have it both ways. I want to have it both ways. I want to reduce the housing waiting lists, I want to protect the green lungs in Jersey also in my district. It seems to me the best thing that the States can do, and I think we may have done it in the past long before I got here, was just to acquire as much land as possible because if you own the land you can decide whether you keep it as a green field. You can decide whether or not you have a modest development and you have allotments around it so it will encourage the community development and we are not doing any of that in this process. So I would like to hear from future speakers. I know the Minister for Planning and Environment has already spoken on this. I do not see any joined-up process and if we simply say, as we have set the precedent already, okay, we only pass one of the amendments from the Constable of St. Clement to say: "Oh well, I feel sorry for all of these country Deputies or suburban Deputies, Constables and therefore I am going to support all of them and we are not going to develop any of the green fields", but I do not know what the solution is. That is not a correct way to do things. I wonder if, at this point, it might be worth invoking Standing Order 85 to ask if we could move to the next item, if that is not an abuse of process, depending how many people have spoken. It is just something that I will put out there. It is not something I feel particularly strongly about one way or the other but it has been suggested to me, put that to a vote if it is in order.

The Bailiff:

If we move to the next item of business this amendment will therefore fail and therefore the Minister's proposal will be left. So it is, in effect, much the same as I would have thought.

Deputy M. Tadier:

If that is the intention clearly that is not what I am asking to happen. **[Laughter]** It was suggested to me but I thank you for the ruling. Hopefully Members will consider the points that have been

made. This is not a very good way. If we had a proper Island Plan and you said: "Look, this is what the Island will look like in 10 years, in 15 years, we will have these developments", and there are conditional choices that are made, then we could all deal with that but that is not what is happening here. It is a bit like the referendum debate, is it not, people saying: "Well, I cannot support that because I do not know if x will lead to y ." I think that is very much the way we find ourselves with this. If we did have a St. Helier Masterplan and we knew exactly what the development was going into St. Helier, the density, the quality of life for people, I would be much more comfortable in making these decisions but as it stands I think I will be consistent and support the Deputy in this amendment but it is not a perfect system by any means.

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

Immediately following on that; if only we had a long-term plan. If only we had an outline that said this is what the Island will look like in 10 or 16 years. This is what St. Helier might look like and here are the densities in the urban areas. We have not even got a population plan. We have got an interim population plan. For the moment we have got a plan. It only lasts 2 years. We cannot. We are incapable, it seems to me, of looking 10 years, 15 years ahead and we are doing this absolutely piecemeal. Where everybody can pick their favourite bit and what is the solution? The solution is exactly as described by Deputy Tadier, we will pile them into St. Helier. We will pile them into every site. We will build them cheap and stack them high. That is what will happen. That is the solution because that has always been the solution.

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

Before I start I would just like to pick up on one of the points that Deputy Tadier made, that he said that this is not an Island Plan, but of course it is an Island Plan. The trouble is that we have had to bring a bit of it back because we ducked the issue last time when we should have dealt with a full Island Plan. I will try not to repeat what I said yesterday, bearing what you said, but I do have to repeat a small amount of what I said. I could pick up my whole speech and say ditto but the fact is that we have 863 people on the highest priority who need housing now. I know I said that yesterday but I want to remind you, we have inadequate housing or good housing. There is not a Member hardly in this Assembly that has not brought forward cases of constituents who have been on the waiting list for 2 years or more asking what I am going to do about it and what can I do about it, when I have got a waiting list this long and no homes to allocate people to. This site might only be 27 homes but if you are one of those people going into one of those 27 home it is vitally important. Just think about how we think as individuals about our particular homes, whether we are renting or buying. These people are the most desperate people. They are generally hard working people who do not have high incomes and to get into band 1 you have to be homeless, under eviction or disabled. They really are people that need housing now. This is not some mythical list of people that I have pulled up to try and get people to come and support the site. This is a fact and I invite Members to come and sit in sometimes when we are interviewing people on the Gateway and just see how difficult it is. Now I would like to talk about this particular site, the Longueville Nursery site, or at least the bit of the site that we wish to develop. In my mind it is not a greenfield site. It is at best a brownfield site. It is currently a retail site. It is not run as a nursery at the present time I am told. I am told that it is a car park for hire cars or cars for sale. This particular site is perfect for development and it is only part of the site we want and we know Members will say: "Yes, but you will come back for another part of the site later." I assure Members that we will not come back for another part of that site later. Our plan is to acquire the whole site and develop the bit that is up for rezoning and then to develop something like allotments on the remaining bit. Deputy Tadier also made reference to: "Will this be developed or will it sit there?" I am paraphrasing but that is basically what he said. I can advise Members that my officers have been in discussion with the owner and if it is rezoned and we are in a position to purchase

from the owner and get on and develop those homes on the basis of 80 per cent for affordable rental and 20 per cent for affordable to purchase. Yesterday, Deputy Le Hérissier made reference to the traffic. I am not an expert on traffic but I do have a great deal of, I believe, common sense and I have listened to what the inspectors said, who are experts in this respect, who do not see it as being a significant problem. I would say that I was a regular customer of Longueville Nursery when it was run as a nursery and I have got 2 very fine apple trees growing in my garden that I purchased from there some time ago. Do you really expect me to accept that the traffic will be heavier from these 26 or 27 homes than when this was run as a retail site as a nursery. Whenever I went there I had a job to park. There were 30 or so cars in the car park and cars coming and going all day. That is a red herring. As I say, I am not an expert on traffic but the experts say it is not a problem. We need these homes. These people really exist. It is all very well for us to say: Come up with another plan” and yes, a plan for St. Helier. I agree with big apartments in St. Helier. I agree with balconies. I agree with development of town. It is not quite ready yet. The sites that are available are too expensive. We cannot afford to purchase them. If they went forward under compulsory purchase - which I very much doubt this Assembly would agree to - they would not be affordable at the proper rate that the owner expects to get. Some of the sites are difficult to develop because they have a number of listed buildings among them and would not yield the homes that we would need and thus are more expensive. The Constable of St. Helier is absolutely right, we need a proper plan but those sites, sites that we can afford to develop, have to become available. They will become available. They will when the finance sector move to their new sector on the Waterfront in whatever form or shape that will be. They will become available and we will develop homes with higher ceilings, bigger rooms and balconies that people can walk on and not just have one chair on and it is full. That comes later. These 863 people are homeless now. I am glad of the support that we are getting out in the country Parishes for some development there but these sites, if you are one of the people getting these 27 homes, this is really important. I urge Members not to throw away what I see as a perfect site for development. Most people driving past that road would not even know it was there.

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

Thank you and particularly thank you for calling me after the last speaker. This is my first time speaking in this debate and I am speaking specifically with regards to this rezoning because not only am I a St. Saviour Deputy but I am very aware of the area and the difficulties and the problems that the residents face and the issues should this amendment not go through, the future residents may face. If you look at the document on the Island Plan it talks about the affordable housing site assessments and for the last speaker to say that the traffic will not be high when in fact it states that although the trip generation is likely to be fairly high there are realistic alternatives to car use from this site and potential to improve those alternatives. Well, I am going to use the words of the Minister for Social Security from yesterday: get real. Get real. Honestly 6 years. Six years I have been in the States fighting with the T.T.S. (Transport and Technical Services) Department, with the Education Department and with Planning and all the other departments to try and get a proper network in St. Saviour to work properly for pedestrian safety, for child safety: 6 years. We are being told that ... yes, okay it is only 27 units but we are going to help these 863 people on this waiting list by building 27 more units. Really?

[10:15]

Let us be serious and, yes, it is used as a car park at the moment but only the front part of it, not the whole thing. Only the very small front part is used for the cars. I would also suggest that the assessment made about Plat Douet Primary School predicted to have sufficient capacity. Yes, if you increase class sizes probably going forward. Le Rocquier, we have just agreed to build on Samarès. That is going to fulfil plenty of class sizes in Le Rocquier going forward so we will just

shoehorn more people in. This rezoning debate is a perfect example of how the Council of Ministers time and time again fail to fulfil their job of bringing forward States-owned land and building on it. Fifteen years ago this States Assembly agreed for the Police Department to be moved. We have now agreed that and there is no digging. Nothing has started yet. We have the Esplanade Quarter where we are going to build offices. Nothing started on that. We have La Motte Street. We have J.C.G. (Jersey College for Girls), how long has that been going on for? The d'Hautree site was transferred to the Housing Department in the 1990s, nothing happened. So do not come here and tell me now, all of a sudden, we need this small parcel of land for the 27 units and it is going to make a world of difference to these 863 people on the waiting list. Back in the 1990s there were 500 people on the waiting list. I do not think it has ever got below 500 on the housing waiting list. So I am sorry but this is a perfect example of how this Council of Ministers in this particular 3 years has been pushing more and more things forward, shoehorning everything in and it is completely disjointed. It is all over the place. People have spoken about the population policy. People have spoken about the ... well, let us talk about the Sustainable Transport Policy. Let us not even go there. It is completely muddled. Nobody knows what we are talking about. Not only will we have to build the 27 units there will also have to be 2 substations built there as well for the electricity. I would suggest to anybody, go down to Longueville, try and find somewhere to park your car on New York Lane and then attempt to cross that road at Longueville Road and then when a St. Saviour Constable or Deputy comes forward in the future and asks for a crossing, let us go back to Miladi Farm and how long that has been going on. So, I am sorry I am supporting Deputy Le Hérissier's amendment because time and time again we are given promises and commitments and that everything is going to be joined-up and I am sorry but this is moving in to green fields. This is going to be a requirement in the future because once St. Helier is full it will be moving on to St. Saviour because it is the next close thing. St. Clement is already full up and it going to be even more full up. I am sorry but I would please ask the States Assembly to support Deputy Le Hérissier's amendment and that we ask the Council of Ministers to seriously think about how joined-up their policies really are.

The Bailiff:

Does any other Member feel they have a new point to make? Very well, I invite Deputy Le Hérissier to reply.

1.1.11 Deputy R.G. Le Hérissier:

I thank all Members. I think it has been a very useful debate. It has fleshed-out more issues than were even fleshed-out in the major debate yesterday. If Members will forgive me I will not go over every speech but I think the important things are disconnected policy, the photo of Deputy Maçon, a photo makes up for 1,000 words, and I do thank him for that. That is a very effective illustration. The notion of the Minister for Housing that there will be no planning creep. I admire his energy, his application and so forth but, as Deputy Vallois would say, get real. The point has been made to me a few times this morning, it was a very good point, and I am afraid despite the wonderful rhetoric of Senator Le Gresley yesterday followed by Senator Ozouf, if you run a high immigration policy it will have consequences. This has been said for years and years and, as Senator Le Gresley quite rightly said, you have to face up to those consequences but ultimately you have to face up to the policy, whether it is the right policy or not and how you implement it and obviously we failed in a very big way. The other point I would make, the Constable of St. John mentioned other Parishes are taking the strain or maybe taking the strain and St. Saviour has. I always think back to the last meeting of many meetings about the Langtry Gardens development. When the Parish came together, and there was a real feeling that it would be rejected by the Parish but it was not, it was quite interesting, the quite conciliatory view was, look we realise this has got to happen, sadly in the eyes of a lot of people an inevitability. As I said yesterday we have sold one off the big fields,

the rest is going to be infill I am afraid. What they said was: “We will allow this to happen. We will accept your promise that because it is going to be an over-55s development [we had not had the Gateway issue at that point] it will free-up other houses in the Island and it will gradually unblock parts of the housing market but you must stop developing on the boundaries of the Parish.” A lot of that criticism was oddly enough at the Five Oaks end, at the greenfields site, which was set up as the boundary because there had been attempts to develop a field there. Oddly enough going into Five Oaks rather than out of Five Oaks but anyway there had been attempts. “You must stop that and on that basis we will accept it”, and that is how it went through. The interesting thing was, of course, when the Constable of the day came up with another field within that boundary that is when the Parish rose up, as you will all remember. So people were prepared to listen to reason, reluctantly, and they did accept a very big development because they felt, for various reasons, it was inevitable but there were certain reasons and despite what Senator Ozouf said: “Oh, we must look at density”, there is considerable density on that site because a big part of that site is apartments. In fact they have replaced, or could replace and are likely to replace, the proposed care home. So all I am trying to say is the Parish has tried to take a broader view. It is not just saying this field, never another field, *et cetera*. I do thank Members for what they have said. I think there have been some very good points raised about the bigger issues, about the nature of non-planning and I think the Minister for Planning and Environment is to be commended for his very brave speech. On those grounds I move the proposition.

The Bailiff:

The appel is asked for then in relation to ... So, yes, the matter before the Assembly is the second amendment lodged by Deputy Le Hérissier. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 25	CONTRE: 15	ABSTAIN: 1
Senator A. Breckon	Senator P.F. Routier	Deputy R.C. Duhamel (S)
Senator S.C. Ferguson	Senator A.J.H. Maclean	
Connétable of St. Helier	Senator B.I. Le Marquand	
Connétable of St. Clement	Senator F.du H. Le Gresley	
Connétable of St. Lawrence	Senator I.J. Gorst	
Connétable of St. Mary	Senator P.M. Bailhache	
Connétable of St. John	Connétable of Trinity	
Connétable of St. Ouen	Deputy G.P. Southern (H)	
Connétable of St. Brelade	Deputy of St. Ouen	
Connétable of St. Martin	Deputy J.A. Hilton (H)	
Connétable of St. Saviour	Deputy of Trinity	
Deputy R.G. Le Hérissier (S)	Deputy S.S.P.A. Power (B)	
Deputy J.A. Martin (H)	Deputy E.J. Noel (L)	
Deputy of Grouville	Deputy A.K.F. Green (H)	
Deputy J.A.N. Le Fondré (L)	Deputy of St. John	
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy T.A. Vallois (S)		
Deputy J.M. Maçon (S)		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy S.Y. Mézec (H)		

[Approbation]

1.2 Island Plan 2011: Revised Draft Revision - Approval (P.37/2014) - third amendment (P.37/2014 Amd.(3))

The Bailiff:

Very well, then we come next to the amendment number 3 lodged by the Deputy of St. Martin. Again, the terms of the amendment are set out in the running order so I invite the Deputy to propose his amendment.

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

Right at the outset can I inform Members that I am a member of St. Martin's Housing Association but all members on the Association do it in a purely honorary capacity and I have no financial interest in this proposition. The last time this Assembly debated the Island Plan, this current Plan, it sat, I am told, for 9 straight days. I have no intention of doing my bit to help to replicate that feat so I am going to be as brief as I can, and in trying to do that I have cut out the next section of my speech which deals with housing need. I think we have already had a good and meaningful discussion on the needs. When it comes to Parish amendments my Parish, St. Martin, wants to build. It wants to do its bit. It wants to contribute to the housing stock and while we may differ marginally on the type of housing required no one can argue that there are young couples out there who want to start families, who want their own home, who want to make a base for their lives to come but just cannot afford to get on the housing ladder. I bring this amendment in order to allow St. Martin to maintain their proud record of providing houses that are affordable and with financial Parish-led assistance help more of these young Jersey people to realise a dream of owning a house they can call their home. We are proud in our Parish of our record of providing affordable retirement and lifelong homes. Most recently in Maufant Village we have built houses that are affordable to purchase but also have some rented social there as well. In recent years the Parish has led the building of 31 first-time buyer homes for young couples and 27 sheltered homes for older people associated with St. Martin and we want to do more and that is why I stand before the Assembly today. St. Martin's Village is a rural settlement that had evolved in the vicinity of the Parish church with existing plans for the settlement in St. Martin to be updated and those are not just my words, they are the words of the 2002 Island Plan. The 2002 Plan accepted that the key rural settlements have an important role for administration and services in their respective Parishes and have a clear concentration of housing and community facilities. St. Martin's Village was considered an important settlement with a full range of facilities including a primary school, church, community Parish Hall, public house and local shop. It was against this background that St. Martin's Housing Association first thought about the development of Field 402 back in the 1990s. However, it was 2006 that the scheme was properly initiated, a scheme that envisaged the building of another tranche of homes for young people with Parish links and that field was 402 that we have in front of us today. In the Island Plan 2002 the then Minister for Planning and Environment indicated that he wished the northern Parishes to share the burden of a growing housing need across the Island. The then Minister wanted some 100 new homes distributed across the north of the Island and St. Martin indicated it was prepared to build its share. Consequently plans were drawn up for Field 402 and despite the fact that St. Martin had an application ready to submit and that plans and a model had been completely redrawn for a second time to reflect changes to the bylaw regulations it was indicated to the Parish in early 2011 that the application to build in 402 would stand a much better chance of approval after the new Island Plan was approved. What a surprise it was for the Parish when the new Plan was agreed in the summer of 2011 and Field 402 was not even any longer zoned for housing. The Housing Association had by this time spent many tens of thousands of pounds on professional fees and members had devoted many hundreds of hours of free time all to no avail. I would just remind Members that in the 2002

Island Plan Field 402 was identified and zoned for housing. Jersey has a fantastic tradition of honorary service and the Parish of St. Martin is no different. Like other Parishes we rely on young men and women entering our municipality, our Honorary Police force and our many and various groups, panels and committees. The annual Gorey Fête and St. Martin bonfire are events that are known across the whole Island and produce huge sums of money for local charities but there are also many other groups in our Parish that do equally good work. All these Parish events are staffed by parishioners at no cost. A fantastic achievement and one that the Parish is quite rightly immensely proud of. However, to maintain these many honorary traditions we need more young people and young families. To assist those families St. Martin is prepared to sell houses at cost price with shared equity as a way of providing homes that young people can afford. To be absolutely clear, these houses will not ever be sold on the open market because it is the intention of the Association to retain their third equity share in perpetuity. The houses will also be sold to young families that without this scheme would not otherwise be able to purchase properties of this type.

[10:30]

It has always been the intention, as in the past, that the emphasis of recipients would firstly be people with St. Martin connections and that would be the same today. However - and I cannot stress this enough - it does not mean that this scheme would not be open to all. St. Martin wants to help anyone who needs a home of this type. It just seems sensible that, should they wish to, young families should be able to stay near to their roots with the obvious benefits that close proximity to existing family might give. For those and other reasons the Parish does not need or see the need to use the Housing Gateway. We have over the many years that we have developed the scheme, and since it was first mooted, built-up a considerable list of people looking for a home to purchase with many of those people applying from outside of the Parish. St. Martin has more than enough names to fill these homes without requiring any further input from the Gateway lists although the Gateway could be used if required. The St. Martin's Housing Association has a proven track record and experience of providing rural type homes in a country Parish. The Association has also learned much from their previous projects. They can be relied on to deliver a fair and equitable scheme that will genuinely deliver homes in a way that young people can afford to purchase. The Association have constantly relied on Field 402 for their next project and until very recently have always worked on the basis that they would be allowed to continue as such. In the traditional way the Housing Association members all give freely of their time. This proposal just requests the Assembly to allow St. Martin to continue this honorary tradition, one that has served the Parish so well in the past. I am going to stop there. My time is better spent answering questions that Members might like to put but I hope that Members will feel able to support St. Martin and I make the proposition.

The Bailiff:

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

1.2.2 Deputy R.C. Duhamel:

I am supportive of the need to sustain our rural communities and country Parish life. Part of my revision to the Plan seeks to do this as set out in policy H5. As I have stated in my comment however I think it is important that where land is being rezoned around rural Parish centres that it helps to address the Island's most pressing housing issue which is the need for affordable homes. To do this it is essential that the allocation of any homes provided here is undertaken through the Housing Gateway. This will allocate homes to people based on an assessment of their income level and under the proposed definition of Category A Homes to households with a median income level or below. This does not preclude the occupation of any homes by St. Martin parishioners or those

with connections to the Parish who would like to move back into St. Martin. What it means is that they would have to qualify by assessment through the Housing Gateway. While the purposes of the St. Martin's Housing Association and the thrust of this amendment are undoubtedly well-intentioned the effect of it would be to remove any effective control as to who could occupy these homes. This would render them as Category B open market homes, for which there is already adequate provision in the Plan and for which there is no justification to release greenfield land. Similarly, while there is the intention that the land be developed by or on behalf of the St. Martin's Housing Association this could not be regulated by the planning system if the site is just rezoned for housing as opposed to Category A Housing. Its subsequent development would be a matter for the landowner alone. I am, therefore, unable to support this amendment because I think it is essential that where we are looking to release greenfield land for housing we should only be doing so where it helps to meet our most pressing housing need. If this amendment is accepted there is no guarantee that it will. On that basis I cannot support the amendment.

1.2.3 The Connétable of St. John:

As a Parish who have taken a lot of Parish development-led schemes over the last 40-odd years it is a pleasure to be able to stand up here and support a fellow Parish, like St. Martin, who in fact over the last few years have assisted St. John in putting in place Le Comité Rural de St. John so as to be able to identify areas within our own Parish for the future. Without the help of the Parish of St. Martin, who had set up their scheme before we did - many years before - it has been of great help. Knowing full well that the way the Parish of St. Martin is looking to develop this particular area of land with the view of their own young people, in part, to be the recipients of these properties if, if we pass it today, and I sincerely hope we do, this is not something that has been done on the back of a cigarette packet. As the proposer said, the Deputy of St. Martin, this goes back prior to 2006 and beyond with a scheme that they want for their Parish. Unlike the earlier debate with Deputy Le Hérisier we have got a Parish here ... is Parish led, there has been an awful lot of work done over many years by the committee in St. Martin on this and this is one way of moving forward, one way of bringing a lot of young people back, bring the life of the Parish back into the Parish for another generation and thereon. I think it is very important that we do that. We will be having a similar debate shortly over St. Ouen and I think this is the way forward. We have got a Parish here who are very keen to move in this particular way and we should be supporting it.

1.2.4 Deputy J.A. Martin:

This will be my first hallelujah - I cannot even say it - hallelujah in this debate because we are absolutely standing here and not discussing putting housing in St. Helier, St. Clement, St. Brelade or they are somewhere else, St. Saviour. I did say yesterday I will be supporting St. Ouen. Obviously we also need to find some people to go to Plémont Headland, so put houses there. I will get serious here. I have listened to the Minister for Housing, I have listened to the Minister for Treasury and Resources about need and I would be very interested in which way they are going to go but do not forget I said yesterday, every consequence we have passed in this House has consequences knocking on. The Minister for Housing has a waiting list longer than his arm because he is letting tenants buy the social housing now and where they do not progress through they are sitting in ... and they are not assessed whether they can buy. Once you are in you are in and then now you can buy it. He will build 1,000 and he wants to sell 950. Over the next 20 years we will have 50 social houses left. Let me tell you about the Gateway, I have read these comments: you have to have children; you either have to be over 50 or you need a medical condition to even get on the list before you get to the Gateway. Now what the Deputy of St. Martin is doing is looking at families who are probably doing it properly. They are couples. They are probably working. They are not having children. They want to buy a house and they want to buy in a nice Parish like St. Martin. Well, I think: "Good on the Deputy." It will stop more over-development in

the urban Parishes and I see Deputy Southern looking very puzzled with me. Well, Deputy Southern knows why the waiting list is so high. He knows what you need to get on to the Gateway. These are not the families that the Deputy is talking about but they are going to be affordable homes in a Parish that can ... the Deputy, I look at the Constable, tell me they can take it. Please read the comments and listen to the speech of the Minister for Planning and Environment. You cannot regulate everybody. There are families out there who will not meet this Gateway list. They will not get on the list - I am repeating myself, just absolutely to make this point. Please support this proposition. I have already said I am going to support St. Ouen. I mean it is the biggest Parish in the Island and no housing; very little housing. So I will leave it there but please remember the people we were talking about, they will never get on the Gateway unless they have 2 or 3 children, over 50 and/or with a severe medical condition. So I welcome this amendment and I certainly will support it.

1.2.5 Deputy G.P. Southern:

I am looking puzzled because I cannot believe the statement I have just heard from my colleague, Deputy Martin. Here we have got now... and if only St. Helier could do this. What did people vote for when they voted for the Gateway, when they voted for the Housing Transformation Plan? What do you think Members were voting for? They were voting for a unified plan to provide housing on the Island and here we are, what, a year later, something like that, a year later picking it to bits. How can we get any consistency? How can we get any progress if we are just going to pick out bits that we do not like in future? This is St. Martin hand-picking who can have a house in St. Martin. What has that got to do with anything? Are we really going to break up into Parishes? Let us be an amalgamation of Parishes because that is the way we are behaving in this Chamber, everybody after their own. Get your armour on, we will have a big bun fight about who is getting it. We know what the outcome will be, we will dump those people in St. Helier. That is the reality and here again we are saying, not in my backyard. I am sorry but this looks, smells and is, not in my backyard.

1.2.6 Deputy A.K.F. Green:

I just want to pick up on a few points. First of all I am delighted and very grateful that the Association has come forward with another scheme but - and it is a but - the allocation of houses that are rezoned have to go to those that are most in need. I obviously have not convinced the Deputy and the Constable. That said, I was quite happy that the criteria, the first criteria coming through the Gateway, were, as we did with St. Saviour, and hopefully will develop with other Parishes as we work our way through, I am quite happy that the first criteria should be for people with strong St. Martin connections. We are going to create an inconsistency if we have one set of rules for the country Parishes and another set of rules for the urban Parishes, if I can call it that. I urge people to ensure that the allocation is done via the Gateway. The Gateway is flexible. We developed a particular Gateway system for the deposit scheme and that worked well. That was not as restricted as Deputy Martin said. That was based on affordability in that case. We can develop Gateway criteria that are slightly different and, as I say, the first, the very first, criteria, as we did with St. Saviour, and strangely enough it did not apply then with Trinity because we were in a different place then, but they had one rental unit they could not find anyone to apply for. They came to the Gateway and we found them a lady with very strong Trinity connections. The Gateway worked. The Gateway is flexible and as Minister for Housing, while I am very appreciative of the work the Association do - and I will talk about St. Ouen later - I have to ensure that at the end of the day the houses go to those most in need even if they have good strong St. Martin connections.

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

As a starting point I simply state I am not going to vote against the proposition. What I do need to be persuaded for is whether to vote for it or to abstain. The reason I put it that way round - that is why I am looking at the Constable - because I am waiting to hear his wise words and I am glad to get in ahead of him, because the difference between this and the amendments we have had and the amendments we will still have to have is the balance between whether this is a rezoning of a green field for development or not. That is not the decision because effectively it is in the Island Plan one way or another. It is basically what the purpose of that field is going to be put to and that is a subtle distinction. I was quite attracted, certainly, by the comments of the Deputy of St. Martin that there is going to be some form of shared equity scheme involved, as I have understood it, and I am always very supportive of flexibility within housing schemes. That is why I do quite like the ability of the Parishes to apply that flexibility and it is not denigrating the existing schemes that the Minister for Housing has just talked about.

[10:45]

It is just saying I think there still must be space occasionally to work alongside that and that really goes back to my very roots of the whole area where there has always been a need to make sure you cater for other people outside of certain rigidities imposed by the existing system. What I was also interested in though was the comments of the Minister for Planning and Environment, and that is where I would like the Constable of St. Martin or the Deputy of St. Martin to comment if possible, which is, I do take the point that if the Parish does not get the purchase of the land, or the Housing Association does not get the purchase of the land, then effectively we have just rezoned it for Category B as opposed to the better benefit of the St. Martin's Housing Association. So to an extent the difference between me abstaining on this and voting for it is what is the position? One is never going to have something legally binding but how comfortable is the Parish that the landowner, if this land is rezoned, that the Parish will be able to acquire that land for the purposes it is talking about. That will be the distinction for me between abstaining and voting for it.

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

I think we should remind ourselves that for a very long period of time we have had a policy in the Island Plan to support the viability and vitality of Jersey's smaller main rural settlements and they are listed: St. Ouen, St. Mary, St. John, St. Lawrence, St. Trinity and St. Martin and our policies say: "Here, it is acknowledged that limited small scale new affordable housing development could be important in maintaining Parish life. This may be considered necessary in supporting and enhancing critical mass and diversity in the local Parish population to sustain schools, shops, pubs, public transport and other facets of Parish life that are unique and important to Jersey." I remind Members of that so when one hears from the Minister for Housing, we have got to have a one-size-fits-all, please remember the Island Plan contains a balanced set of policies that deal with the urban areas, the suburban areas and our rural Parishes. The Minister has proposed an amendment to this particular section. I have just read you one paragraph, I could have read you the whole lot, which all of that makes on the same thing; how we need to make decisions to support those communities. What the Deputy of St. Martin's amendment seeks to do is to slot it into that section, a section that says affordable homes. So the assumption I make - and I am looking for clarification from the Parish representatives - that if this is approved that they will be affordable homes because in the Minister for Planning's comments he said that he fears that these will become Category B homes which will be open market homes and could be subject to, obviously, big market prices. What I hear is that this proposal is coming from a Parish community who have a local association and I would like to have that confirmation, please, that that scheme, if it goes ahead, will be consistent with the principles of affordability and supporting those Parish communities because I think in the past we have had situations where decisions have been made to allow such schemes only to find that those houses have risen in price out of the range of ordinary people and I think this is a case

that we must... I would like to hear explicitly that is not going to be the case, so that for me is a crucial factor. Yes, we have got the Housing Gateway. I think when I was reading the inspector's report, very interesting, there was a bit of a contrast between what the Minister for Housing told us and what the inspector records his position had been. His position was, at the planning inquiry, that there could be flexibility in this. There could be flexibility in the Housing Gateway. I think in the longer run there is a broader policy issue. I think myself, that in having a Housing Gateway, which we need, I think if that ends up precluding Parish communities taking responsibility for their own schemes and so on I think that would be a very retrograde move. So I look forward to hearing comments of the Connétable and/or the Deputy in summing up about that issue of affordability which is a very keen one for me.

1.2.9 Connétable M.P.S. Le Troquer of St. Martin:

I start by declaring an interest, like the Deputy, I am the chairperson of St. Martin's Housing Association. I note your comment this morning about the length of speech but I think we have to understand this is a different concept to the last 2 or 3 debates that we have had, something quite different, the principles are different. The role of chairman comes with the position of Connétable although I was the honorary secretary of St. Martin's Housing Association before that. There is no financial gain to either of us, both Members, the Deputy or myself, but just seemingly many challenges, phone calls and headaches. I brought this matter to the attention of the Greffier last month, wondering whether or not we should have to resign prior to the debate but I thank her for the advice I was given. Of the existing Association members there are 2 former Connétables of the Parish of St. Martin, there is a former Deputy, who was a Deputy back in 1990, Centeniers, ex-Centeniers, the rector and church wardens. It is a totally parochial group of people who have an interest in young people who have an interest in the Parish and in older people of the Parish. Sites for possible development were identified by the Parish of St. Martin 22 years ago, 1992, and one of those sites included Field 402. The St. Martin's Housing Association also identified that field back in the early 1990s. I mention it because I think it is a crucial part of the amendment. The Association would be taking forward this project if the amendment was approved today. The Housing Association is remote from the Parish of St. Martin, from the administration of the Parish of St. Martin. It is incorporated under the laws of Jersey and its objectives under its constitution is to provide, and these are the words: "To provide residential accommodation and any ancillary amenities by whatever mode of tenure it shall from time to time deem appropriate for persons native to or resident in the Island of Jersey and in particular persons having a close connection to the Parish of St. Martin and to provide assistance whether financial or otherwise for the provision of such accommodation." This amendment today is not one of not in my back garden and not in our Parish, thank you. I have no criticism of the Connétable of St. Clement yesterday who has less and less back gardens to work with. We are just trying to provide affordable housing. The Deputy, I thank him for his opening remarks, when he mentioned the construction of the shelter type homes that we have got. Not sheltered in we have not got a warden or a nurse that lives in the accommodation but we have built 6 in the Parish of St. Martin very early on and in 2003 we built a further 21 in the sheltered type accommodation at Le Court Clos and it is managed by the Connétable and the 2 Procureurs. We have just about repaid the loan that we had for that development. The St. Martin's Housing Association was formed in 1994, and I have explained their role, to take forward plans for affordable homes. In 1996 they built 31, as the Deputy said earlier this morning, in the Rue de la Haye complex. Those houses do not ... they are not palaces and they do not have huge gardens. Having served as honorary secretary for the Association I know that lessons were learned from that development. The maintenance of the roads and the verges and things like that but the most important thing was the retaining of those homes for first-time buyers and lessons were learned from that and I think the Housing Association and the Parish now have a track record. On the completion of the Rue de la Haye site the Housing Association did

not disband they wanted to continue looking forward for future projects. I found a minute book and there is a memorandum of the way forward dated in 1999: "Prepare to focus minds upon the options open to the Association for its future activities." It maintained its stance to help young people and to continue with their activities and not to cease as an Association. It is noted that it was very likely that States control and planning controls would result in future developments within the Parish that were likely to be small in the number and that Field 402 was a possibility. It also stated the Association should not wait upon the States but to actively pursue its own policies while monitoring policy developments. They did not close their work, they carried on working and they assisted the Parish to acquire the village green. The Housing Association first approached the owner of Field 402 and I note that, because it was the Housing Association who approached the owner not the owner who approached the Parish or the Association in 2001 and entered into formal negotiations in 2007. They expressed their willingness to allow the field to be used for starter homes and to be led by a Parish project under St. Martin's Housing Association. The Deputy mentioned earlier, plans were drawn up by the architects for the number of homes thought appropriate for the site and I have those original plans in my office. Everything then seemed to go into slow motion with an exchange of views and correspondence between 2008, including those of the previous Minister for Planning and Environment and the previous Connétable, and it was a bit of a stalemate at that time. I read a letter again last evening in which the then Minister for Planning supported the idea. There were a couple of clarifications he required but he sent that to the Connétable of the time. There seemed little or no progress because everybody was waiting on the revision of the 2002 Island Plan. Parishes are also asked by the Minister to identify sites. There was a letter, 17th December ...

The Bailiff:

Connétable, is this relevant to the issue at the moment which is simply the field and who should have in effect control of ...

The Connétable of St. Martin:

I will cut that part.

The Bailiff:

It was over in 2002 at the moment.

The Connétable of St. Martin:

Well, there was waiting on the 2012 plan. That was the reason we were waiting. The 2002 Island Plan identified 6 rural Parishes where there would be 100 new homes in the 6 rural Parishes, that fitted in exactly with what we had. We had a Parish Assembly, we agreed to go ahead with that. Both the chairman and myself took up our positions in this Assembly. We worked together with the planning officers on the way forward and representatives of the Housing Association met on a number of occasions. The officers were very helpful and there were a few ifs and buts. Building regulations had changed and again we updated our plans and had new ones made. We had a scale model made. I approached the Minister for Treasury and Resources to inquire about a States loan for the project and we had a positive response. We approached the Education Department on the proposed new homes and whether they fitted in with the new school. The Connétable of Trinity and members of his team were invited to the Association to give advice on the pitfalls they had had. The Associated liaised with the Housing Department on a number of occasions. We were all ready to go ahead. We believed everything was going fine for our project. I asked to meet to have the field rezoned. I asked the Greffier for advice and arranged to meet with the Minister. I met with the Minister at his office and it was at that time he advised us a letter had been sent to the Parish, which I had not received yet. That Field 402 had been identified by the Minister for rezoning which was excellent, good news for us. There was then talk of the 80/20 split which was

unexpected news for us. There were more homes that had to be built on that site, that is an important point today, I think: we were expecting 15; the Minister was talking 22, so that was unexpected, that we would have to use the Housing Gateway, and I was surprised at that because of some correspondence that I had had from the Minister for Housing, and there was also talk of the compulsory purchase. I have great sympathy for the Minister for Planning and Environment and the Minister for Housing and they have been put in a very difficult situation that they have to find affordable housing and I thank them for the help that they have given for this project. Really in summing up, I am sorry I have spoken for so long, but I think it is important because we are looking at the future homes for 20 or 22 people in the Parish. There will be some Members here that bring up the same comments that may have been made, that were made, in 1994 they were talking about parochial apartheid, that Parish developments should not be exclusive for parishioners. I can understand that feeling and there is nothing wrong in feeling that way but if this was approved the people in the houses will not be just St. Martin born, St. Martin grown-up, husband and wife, St. Martin children; it will not be like that. I know many of the people whose names who are already on that waiting list and it is far easier for me to let the Housing Gateway do it than it is going to be for the Housing Association in future times to do that. The Deputy has said it: this is a Housing Association trying to provide affordable homes. We have tried every aspect and having spoken to the Minister for Housing and Minister for Planning and Environment we will do the shared equity so that the Housing Association retain a third of the building. The Rue de la Haye, there was a 10-year claw-back and that is why the houses are so expensive.

[11:00]

We have been in dialogue with the owner and I think that is quite important for the debate today. I have been in dialogue with the owner to try and increase the concentration of homes on that field so there is no space wasted and we think we can achieve that with a change of the original plan with that owner. I would like to note at this point, as I am summing up, the report on the village plan, the inspector's report, they did note it was clearly not due to a lack of resources and expertise that we had not done a village plan. Well, we have done 2 village plans but not professionally made and we would go that way. There was also other comments that they made, which was a comfort to the Housing Association, that they noted that we have been open and sincere and had clearly been striving for a very long time, it certainly was, to get the scheme off the ground in the interests of parishioners. They also commented on our obvious flexibility and understanding, and seeking to - as far as possible - bring the Parish proposals in line with those of the States, for example, in terms of density and Gateway. The Housing Association is now unsure where to go next if this amendment fails today. The easy answer would be to pull out. We do not wish to do that, we just hope to assist the young families with affordable homes to buy and to remain in and to enjoy, yet find themselves in a community where they and their families have done so much for so long. I thank the Deputy of St. Martin for bringing the proposition today. Maybe some think I should have brought the proposition myself but I think I had explored every avenue I could. We had not discussed our speeches together but we bring this on behalf of the parishioners of St. Martin. Just to tell Members, at the moment, yes, it is a small area of land - I have photographs of the model that we have next to the houses that are already there. That is not what the issue is about today and I did not circulate those and the Deputy has not circulated those. We did not need to. But there are 2 derelict coach garages on that site, there is a German bunker or an air raid shelter within the field itself, and just a lot of old trees that have self-seeded, sycamore trees. I finish with a frustrated response I received from one applicant and his wife, a working man who works for a States department, who continues to provide support on very many charity fundraising events in the Parish, like his father and his grandfather before him. I wrote asking for an update to their situation and whether they would be prepared to use the Gateway. On the comments paper that I received

back from them, just a frustrated reply: “We could wait for ever as you still have not done anything about the plan you did come up with.” It was not for the lack of trying.

Deputy J.A.N. Le Fondré:

May I ask a point of clarification from the speaker, really to seek an answer to the question directly? To the Constable’s best knowledge and belief, the landowner is as tied-up to the Parish as is possible, is committed to the scheme if this amendment was to go through today?

The Connétable of St. Martin:

I can confirm that. The landowner does not want to go down the compulsory purchase, and certainly wants to remain within the St. Martin’s Housing Association on this project. She has indicated that both at the inspector’s review and to the Minister for Planning and Environment.

Senator P.F.C. Ozouf:

I have not spoken yet but I wish to just ask a point of clarification to the Connétable, which will be reflected in my own remarks, if I may. Could the Connétable please confirm that there is or is not an actual agreement in place with the owner, which sets out what the purchase price will be and what the arrangements will be? I ask that because I am going to ask also afterwards for the Solicitor General to explain what the situation will be in the event - I do not think there is an agreement in place - but in the event that there is not a specific purchase agreement in place what would happen if there was a disagreement between the landowner and the Association, despite the best intentions of the Connétable.

The Connétable of St. Martin:

No, there is not a written agreement in place. The initial arrangement - and it is public knowledge in the Parish - that the owner of the field would have 2 houses on that site. We would not be able to get in the number of houses on that site and that is why we are now trying to purchase the entire site so we could apply more affordable homes on that site and bring it up to 22. The owner would pull out of the 2 provided houses instead, we would have to pay for them.

Deputy M. Tadier:

Would the second house of the owner be affordable housing?

The Connétable of St. Martin:

I am sorry, I may not have been clear enough. There was going to be 2 homes built for the owner on that field. There are no houses there now. There were going to be 2 in exchange for the field. Now the owner of the field will pull out of that arrangement and we put more homes in.

The Bailiff:

So there will be no houses for the owner, is that right?

The Connétable of St. Martin:

That is how we wish to go forward now and I have been in correspondence with the owner and they agree.

1.2.10 Senator F. du H. Le Gresley:

I just wanted to really address the proposer of this amendment and ask him whether he would be willing to take a split vote on his proposition because he has a part (a) and a part (b). It seems to be that part (b) is probably acceptable because it includes in the words about Field 402, under paragraph 2: “Access to affordable homes.” We have a definition of affordable homes in the Island Plan so it seems to me that there will be support I think generally for Field 402 being used for

affordable homes. The problem is that under (a) he wants the Gateway, that there would be an exception for Field 402 and I think the mood might be that some Members do not think it should be not allocated through the Gateway, albeit endeavouring to provide people who have roots perhaps in St. Martin. So if he is willing to split the vote I think we might make fairly quick progress on this. Reading the planning inspector's report when this field was considered ...

The Bailiff:

I just want to be clear, Senator, that I correctly understood you in case the Chair has to make a ruling. But as I read it the first part, part (a), is saying exactly the same as part (b), is it not? Namely, that it will not be the States of Jersey Affordable Housing Gateway that deals with the matter, it will be the St. Martin's Housing Association. They are both saying the same thing. What (a) is doing is removing the words that it is the States of Jersey Affordable Housing Gateway from Field 402, and then part (b) says: "Access to affordable homes on this site [i.e. Field 402] shall be controlled and managed through the St. Martin's Housing Association."

The Deputy of St. Martin:

If it helps I can assist the Senator by telling him that I will not be splitting my proposition so he need not fret over it. [Laughter]

The Bailiff:

So you are not going to anyway, but I think they say the same thing. I think they are inextricably linked.

Senator F. du H. Le Gresley:

Yes, and there is the nub of the problem because today we were supposed to be debating enabling people on the Gateway to secure housing and while we welcome the fact that the Parish of St. Martin want to house some more residents and assist with the problem of lack of housing, it seems to me that they cannot have it both ways. They either want to help and, therefore, they have to accept that we use the Gateway for affordable housing, and they want to have their choice. To me that is contrary to the whole point of this debate today. We would not be having the Island Plan debate today if it was not for the lack of affordable housing. It is difficult because I think St. Martin are doing absolutely the right thing but they cannot be too precious about the people that they accept into these homes. I think they are being far too selective and I think that is a great shame because I spoke passionately yesterday about the need to help these people on the waiting list and St. Martin could be a valuable part of that contribution, but they do not want to, they want to choose their own people. So I am sorry, I will not be supporting it.

1.2.11 Senator P.F.C. Ozouf:

I just would like to give notice to the Solicitor General if I may to ask for confirmation of the situation that the Minister for Planning and Environment will find himself in, in the event that - while the good intentions of the Parish, which I am enormously sympathetic of and I will come back to that in a moment - with the absence of an agreement that the owner simply chooses to invoke the effect of the rezoning proposition, which effectively ... in the event that the Deputy is successful in his amendment, my understanding is the 80/20 rule and the restriction on the Gateway affordable housing falls away, so the owner of a parcel of land without an agreement, my understanding is that the owner could then set aside the discussions with the Parish and simply pursue a planning application which the Planning Department would be needing to judge and opine upon based upon the rezoning that would be in place, which I think outside of an agreement established with the Parish, puts some risk into the situation. But I will perhaps just develop my arguments and then come back to the Solicitor General at the end of my remarks, if that is in order.

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

I do not know if this assists the Minister for Treasury and Resources, but clearly if there is an owner of a land they are entitled to make whatever planning applications that they wish to in accordance with the Island Plan of the day. If they do not have an agreement with the Parish or anybody else then they do not have an agreement.

Deputy J.A.N. Le Fondré:

May I seek a query from the Solicitor General? The query was really, because I was trying to re-read the actual proposition which I presume if it was adopted then it would become part of the Island Plan, and would effectively govern the policies applying to that site. Obviously the first 2 lines of the amendment are that the Minister will support the provision of affordable housing, which is Policy H5, and obviously this is an amendment to introduce it is part of H5 but under certain conditions. Then over the page - I am obviously going from the running order - it then says that access to affordable homes provided on the site should be controlled and managed - as you have pointed out, Sir - through the St. Martin's Housing Association. So I suppose the query I have is that while I take the point of the Minister for Planning and Environment that this will not be social rented housing, surely what one is doing effectively is setting up a control that it is not the Gateway that supplies access to the accommodation on that site, it will be the St. Martin's Housing Association because that is going to be written into the policy. If that is not going to be the case, in other words the land owner cannot come to an agreement with the St. Martin's Housing Association, then that whole thing falls away, in other words surely there would then be grounds to object to the site being developed because the access would not be being provided through the St. Martin's Housing Association. Does that make sense? [Laughter]

The Solicitor General:

I wonder if I might ask clarification of that question? Is what is being put to me that if this amendment is adopted then in effect Field 402 is being categorised as affordable housing land, albeit that the management of that land will be through the Housing Association as opposed to the Gateway? Can I just see if that is the question that is being put to me?

Deputy J.A.N. Le Fondré:

I think that is the starting point. So point 1 is, yes, does it then flow that if the land owner decided not to go with the Housing Association and was then trying to do Category B and create great value out of the site - which is one of the implications that is coming round from this argument - that would be in breach of the amended Policy H5?

The Solicitor General:

Can I just take a moment to think about that, sir, and I will come back to the Deputy.

Senator P.F.C. Ozouf:

I am enormously sympathetic with the Deputy and the Constable of St. Martin, and the Treasury has assisted other Parishes enthusiastically in order to come forward with their own sites. A case in point was the Trinity site which is now occupied by some very happy Trinity owners. That is no doubt exactly what the Constable and Deputy of St. Martin are trying to achieve for their parishioners. However, there is an issue of risk and fairness that Members must take into account. Experience of rezoning shows that when there is an inconsistent rezoning of land which is in private ownership you end up with distortions and effectively outwith agreements which there is not with this land, you end up in a position that the residual land value is considerably different on one site versus the other.

[11:15]

In the 2002 Island Plan when we introduced the 45/55 per cent split, against some controversy, it was applied across all the rezoning propositions and there was an ability to swap some of the obligations for social housing on some others. I am not for a moment going to suggest that the one site that has been approved, that these could be swapped-out on the Samarès site, that would be clearly wrong. But there are other opportunities to potentially swap-out. St. Martin should be commended for coming forward with their village plan. They should be commended for the work that they have done over a number of years in providing social housing. They have a senior citizen's scheme, they have 27 sheltered units, and there is a total, I am told, including the Jersey Homes Trust, a total of 83 units for social rent in St. Martin. St. Martin retains approximately, therefore, 1 per cent of the Island-wide social housing stock. I think I have that number right, it might be 2 per cent. It is difficult to say this but on fairness grounds all Parishes should consider the important issues, because there are renters as well as purchasers that want to get housing. I commend St. Martin for what they are doing but we, as we said yesterday, have to take Island-wide decisions. We must take decisions that are fair and that are consistent. The Solicitor General I think wishes to intervene so I will let him, if I may.

The Solicitor General:

I do not mean to interrupt the Minister for Treasury and Resources, simply to say that I have considered the point that was raised with me and, in particular, the key paragraph is 6.119, it is clear from that paragraph that at present Field 402 is specifically zoned for providing affordable housing. Clearly any planning application would have to have regard to that fact. What is being debated at the moment is the mechanism by which that affordable housing is provided and clearly there is an amendment that it should be through the Housing Association.

Senator P.F.C. Ozouf:

The effect is effectively lifting the requirement of the 80/20 and lifting the allocation through the Gateway. That is the effect. That means that if you lift the 80/20, Deputy Higgins, other Members have said, they want to capture some of the land value in order to invest in affordable homes. That can be affordable homes for renting purposes, or shared equity, or the brilliant Trinity scheme. The risk is that outwith a signed, sealed, agreed, agreement the owner - and temptation is going to be there, I am afraid - will be entitled to make a planning application for affordable homes. I am not sure what the residual definition will be, but it is not going to be the restrictive 80/20. I do not think we should be ... I was absolutely against in the rezoning of 2005, and maybe I should have been more vociferous in this. If you are rezoning land, if it is not being given to the Parish or an agreement to purchase it at a very beneficial rate, if it is 2 homes I am not sure whether they are defined, but a nice site in lovely St. Martin is certainly going to be worth at least probably £300,000 a plot. So it sounds as though there is going to be a value of this land - I am just speculating - but it is about £600,000. I have no idea whether that works, I have not seen the numbers. But, in any event, it is not confirmed. I am enormously sympathetic with what the Constable and Deputy are doing but we run the risk of being inconsistent, unfair and, if I may say, while as much as I want to get affordable homes for purchase for people in St. Martin, we also have to find some renting accommodation in the village plan for St. Martin. Parishes cannot say: "We are only going to have purchase, because we want all those renting people to be elsewhere." That is not right. St. Saviour - and I will run the wrath of the Connétable maybe - but Langtry Gardens is, to a great extent, a good example of an inconsistent rezoning. It was inconsistent. It had generous over-55 sites, it was a bonanza in terms of the value of the land because it did not have the 45/55 equivalent of valuation. The land price did all the things that ... even I will agree with Deputy Higgins, I am not about to have a Miliband moment and start saying use it or lose it, or price control, but obviously developers need to gather an uplift in value and they should deliver appropriate social housing. The Langtry Gardens is a case in point and it is relevant to this amendment. There was a

bonanza. We were led to believe that over-55 was somehow the same thing as affordable homes. What a load of rubbish. I do not criticise the developer but we need to learn the lessons of the past. Those homes were at full market price and this is what is going to be able to be possible outwith a specific agreement with the landowner. The St. Saviour's site - it was my late father - had a tough Constable that said: "I want homes for St. Saviour people." He said: "I want 30 homes for 30 people, otherwise I am not going to agree." I think there were further negotiations and the Parish had to deliver and now the Connétable has 30 fantastic units of social rented housing for St. Saviour's people on that site. I say bravo but it was an inconsistent rezoning that only made it slightly better. The land value was too high. If we lift this restriction outwith agreement ... Trinity was different because there was an agreement in place, the land was given for nothing. The Connétable has corrected me, they owned it. Now, if the Parish were coming forward owning the land, or with an absolute tough conditionality appropriate, I would probably have no problem with it. But there is too much risk in doing this, and secondly it is an issue of fairness. All Parishes need to put rented properties. I would favour a further parcel of land in the St. Martin development scheme to be available for purchase and shared equity. They need to do both probably, and I would support them doing so, they are a responsible Parish. But we cannot be inconsistent. We must not be unfair. There are going to be howls of protest: "Why does my site have a better land value than another?" That is wrong. We have learned from the mistakes of the past, the 1998 rezonings, the 1999 rezonings, the chaos that we made enforceable on the 55/45 split in 2002. We made a mistake in the rezoning of the over-55s. It was wrong. There was bad density, there was not an application of a fair, consistent approach in terms of valuation. That was absolutely wrong. If taxation, which a planning obligation is, in all but name ... Members are going to be informed about the Budget proposals in a big consultation of property tax tomorrow, briefed at lunchtime on this, we are tackling this issue of fairness. It has to be fair. So either the Parish have an agreement, they have to come back with an owned piece of land with an agreement and then I think we can possibly consider whether or not there is an alternative. But we cannot be unfair and I would say very respectfully to the Deputy that he is exposing himself and the Parish authority to a big risk. Despite what the owner is saying now, there is no guarantee that they are going to be able to follow through on that. With a heavy heart - but on the basis of fairness and consistency and risk - I am afraid that I cannot go with the amendment of the Deputy. But working with Planning we certainly can find a solution because we all want to do both, we need supply in social rent and over-55 and in, effectively, share equity. But I am afraid, unless the Deputy can convince me otherwise, it is far too risky. I say that with a very heavy heart.

1.2.12 Senator L.J. Farnham:

Just following Senator Ozouf, I would like to ask the Deputy of St. Martin, on the consequences Senator Ozouf spoke about I would like to be clear that if the Assembly were to support the Deputy's amendment, what are the consequences if the Housing Association then do not do a deal. Could then the owner of the field put in their own application for Category B housing, for example, and is there any likelihood that could then put pressure on the Planning Department? I would just like to understand the consequences raised by Senator Ozouf.

1.2.13 Deputy S. Power of St. Brelade:

It is just a question for the Deputy of St. Martin in his summing up. If he could clarify the following, and I follow on from what the Minister for Treasury and Resources has just pointed out. If, without disclosing anything confidential, the Deputy of St. Martin could give an indication to the Assembly whether he ... or whether the Constable of St. Martin has shown any pre-legal advice or part of the terms of the agreement with the owner of this property in terms of what are the Parish obligations to the owner of the property in regard to the agreement and whether there are commitments that the Parish might have to undertake to the owner in regard to the enabling of the

site to be developed along the lines of what the Deputy of St. Martin is proposing in his amendment? I think it is important that the Assembly has some further indication of where the Parish lies in these negotiations because it is important, as the Minister for Treasury and Resources has said, that is not open-ended from a legal point of view.

The Bailiff:

Does any other Member wish to speak? Then I invite the Deputy of St. Martin to reply.

1.2.14 The Deputy of St. Martin:

Can I thank everybody that has contributed to the debate? It has gone on a little bit longer than I expected initially. But I can start by dealing with Deputy Power, Senator Farnham and one or 2 of the issues raised by Senator Ozouf inasmuch as I go back to the fact that this field has been in negotiation since the 1990s. We have been dealing with the same landowner. We have had agreements in place, and Senator Ozouf may say he has to be consistent and fair and we are being inconsistent and unfair, but I would say to him, Senator, we have had agreements in place previously and this Assembly has taken the rug from under our feet. We were assured by previous Ministers for Planning and Environment that if we waited for the new Island Plan we would be in a better position and we found that we did not even have a field that was zoned for housing. We have had people on our lists for almost decades who are - as the Constable described - getting fed up with us because we cannot make progress. The reason we cannot make progress, and this was asked, the Senator says it is impossible to move forward until the Parish owned the field. The Parish are not in a position to purchase the field until the field is zoned for housing. So we are in a position where we cannot move forward because we need this debate to happen and we need to know what we are going to be allowed to do with it so we can go and get an agreement with the landowner, who is a most trustworthy person. The landowner had the opportunity when the field was previously zoned to do a deal with private enterprise and has managed to resist all these years. Why is she going to change her mind now? It would be quite beyond me. I would thank those people who spoke in support of me, the Constable of St. John, Deputy Martin, obviously my Constable, and would reaffirm to the Assembly the Constable and I stand as one on this. There is not a single paper between us, and you can be assured that we both think alike. Deputy Le Fondré I hope has had his questions answered. Deputy Young asked about where we are going to be and Senator Ozouf mentioned the fantastic scheme in Trinity, and if the Parish of St. Martin can achieve the same equity on those properties moving forward into perpetuity where the Parish will retain one-third of the value of the properties, that is how we wish to proceed.

[11:30]

The Minister for Planning and Environment, I would say to him - and it is the same point that I make again to Senator Ozouf - this scheme has been on the table for years, far longer than the Housing Gateway has been in place. Is it fair, through no fault of our own, we have been waiting years to do this? People who were on the scheme previously and may well have qualified now will not qualify under the Gateway. To Deputy Southern I would say I know young couples that qualified easily under the Gateway 3 years ago, but not now. It is a shame he is not here to hear what I have to say in response to his question. We have young couples on our list at the moment who will qualify under the Gateway scheme, and almost certainly by the time the houses are built they will not qualify. In fact, we have a long list of names on our scheme, many are people who have been there for many years. We only want to finish what we started. Deputy Young spoke about an overall package and I think it is important that we concentrate on an overall package. Part of that package is allowing families to stay in the areas that they have grown up. I would say to Deputy Green and to Senator Le Gresley, time and again I see families that benefit from staying close to each other, mothers and daughters with babies and grandchildren, grown up children with

parents that increasingly need help into their old age. I have made a list here, babysitting, the school run, shopping, picking up prescriptions, or just visiting your parents for companionship, something I wish I had more time to do myself. The list goes on and on. Families need to be close and everybody benefits, the health of the family benefits and the finances benefit from being close. I am going to sum up by saying this: St. Martin has a scheme, one run by parishioners who give freely of their time because they want to put something back into their Parish and into their Island. Surely we in this Assembly want to do our bit and help to encourage young families to be able to stay close to their roots. This is not a new scheme; it is not a divisive scheme. It was here many years before the Gateway was even thought of. I ask Members to support this proposition, one that seeks to build shared equity houses for genuine young families, houses that they can afford, houses that will allow them to stay close to their roots, houses that they will be able to call their homes for the rest of their lives. I make the proposition and call for the appel.

Senator P.F.C. Ozouf:

May I ask for a point of clarification? The Deputy said that the effect of his amendment is to allow shared equity. But that is not what the proposition says and I am confused. There is a disconnect between what we are being asked to do, which is lifting the restriction, and what the Deputy is saying. I just want to confirm from the Deputy that what he is saying is aspirational, but there is no guarantee of being able to deliver it outwith an agreement with the landowner and the specific alternative planning obligation from the 80/20.

The Deputy of St. Martin:

I can confirm that the amendment to the Minister’s proposition is to take the control of the scheme, as it was always the intention, to give the control of the scheme to the St. Martin’s Housing Association. I can give no guarantees to the Senator other than my word that the intention is not make these houses unaffordable to these young families and to do the similar scheme that has been done in Trinity. It is not written down in black and white but all I can do is say that would be the Parish intention, it has always been the Parish intention. We want our young couples to be able to buy houses that they can afford and the only way they can do it at the moment is to have a shared scheme with the Parish leading.

The Bailiff:

Very well. The appel is called for then in relation to the amendment of the Deputy of St. Martin. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 24		CONTRE: 19		ABSTAIN: 2
Senator P.F. Routier		Senator P.F.C. Ozouf		Senator A. Breckon
Senator S.C. Ferguson		Senator B.I. Le Marquand		Connétable of St. Lawrence
Senator A.J.H. Maclean		Senator F.du H. Le Gresley		
Senator L.J. Farnham		Senator I.J. Gorst		
Connétable of Trinity		Senator P.M. Bailhache		
Connétable of St. Peter		Connétable of St. Helier		
Connétable of St. Mary		Deputy R.C. Duhamel (S)		
Connétable of St. John		Deputy R.G. Le Hérissier (S)		
Connétable of St. Ouen		Deputy G.P. Southern (H)		
Connétable of St. Brelade		Deputy of Trinity		
Connétable of St. Martin		Deputy S.S.P.A. Power (B)		
Connétable of St. Saviour		Deputy K.C. Lewis (S)		
Deputy J.A. Martin (H)		Deputy T.A. Vallois (S)		
Deputy of St. Ouen		Deputy A.K.F. Green (H)		
Deputy of Grouville		Deputy J.M. Maçon (S)		
Deputy J.A. Hilton (H)		Deputy G.C.L. Baudains (C)		

Deputy J.A.N. Le Fondré (L)		Deputy R.G. Bryans (H)		
Deputy E.J. Noel (L)		Deputy N.B. Le Cornu (H)		
Deputy of St. John		Deputy S.Y. Mézec (H)		
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				

1.3 Island Plan 2011: revised draft revision – approval (P.37/2014) – fourth amendment (P.37/2014 Amd.(4))

The Bailiff:

Very well, we then move to the next amendment to be considered, that is the fourth amendment lodged by the Connétable of St. Ouen. Again, the text of the amendment is set out in the running order and I, therefore, invite the Connétable of St. Ouen to propose it.

1.3.1 Connétable M.J. Paddock of St. Ouen:

I am minded of your guidance, I will try and keep to the main bullet points. First of all I am pleased that the Minister is minded to support this amendment. The Parish has taken notice of comments made by the planning inspectors and the need to develop a village plan, and have been working closely with the planning officers who have recently agreed a scoping document that the Parish can follow to deliver a village plan. States Members should be aware that the Parish has been undertaking significant work over many years, including the consideration of a significant number of alternative sites, many which have been suggested by those objecting to the rezoning of Field 622. However, as we are a rural Parish and our village is surrounded by green fields we need to be mindful of the fact that most, if not all, of the alternative sites are also in the Green Zone sites. For over 40 years St. Ouen has sought to provide housing needs for our local community and the land close to the Parish Hall has over time been rezoned to provide first-time buyer and sheltered housing for many families with Parish connections. We currently have 38 units of sheltered housing which are all currently fully occupied, and a waiting list that is growing. At present, following work already undertaken, part of Field 622 has proved to be the most suitable site to date because it is on the very edge of a Built-Up Area of the village, close to the centre, with the best pedestrian access to village amenities. Furthermore, the pedestrian access is very good as there are no requirements to go into the road. In addition the Parish has been extremely fortunate to benefit from a most generous bequest by the late Mrs. Coulter, a former parishioner, as she too recognised the need for additional homes for the elderly. I am able to assure Members that, subject to a village plan, we have the funds in place to provide homes to help meet the Island’s overall housing needs, at the same time meet the needs of our parishioners. I would like to take a moment to address some of the points raised in the letter circulated to Members. First of all, the Parish has always intended to use only part of Field 622, totalling 4 vergées. If the Members will turn to page 6 of my amendment they will find a site plan showing the location of the field in relation to our village. This field is rented by one of the largest privately-owned farming businesses in the Island, who are based in St. Ouen. They do not believe that the loss of this land would have any impact on their farming enterprise, describing the land as marginal. It is true that over the last 7 years, following advice from the Planning Department, a number of attempts have been made to deliver the much needed sheltered housing. The inspectors concluded in their last report: “Field 622 has its advantages, including its proximity to the village, and the support expressed at Parish meetings cannot be ignored. The effect and the commitment of the Parish authorities to development of accommodation for its residents must be applauded, but the difficulties are considerable. We

conclude that a village plan should be prepared. A good deal of the necessary work has been done and it should be completed as quickly as possible. We think the Minister should offer some help and advice to the Parish in order to complete this. As part of that exercise the alternatives need to be fully and independently assessed on the basis of their technical work already carried out. This may turn out to be the best site, but we do not rule it out of the equation.” For the record, the parishioners at a Parish Assembly supported me bringing this amendment and I would like to assure Members that as part of the village plan process we will be reviewing all sites. I am going to make sure that not only will all parishioners be involved in the development of the plan, but the matter will be coming back for discussions to future Parish Assemblies. Since being in office I have been extremely grateful for the support of both the Minister for Housing and the Minister for Planning and Environment in helping the Parish to deliver these much needed homes. I accept this is the first step, but it is an important one. Village plans should not be undertaken in isolation of the Island process. I ask Members to support my amendment.

The Bailiff:

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

1.3.2 Deputy R.C. Duhamel:

I am minded to support this amendment but in doing so it is important to be absolutely clear - and this applies particularly to the Connétable and the Parish Deputy - about what this amendment does. At the outset it is important to state that acceptance of this amendment does not confer any form of endorsement of Field 622 as an appropriate site for housing over any alternatives. What it does do is support the principle of the use of the site for housing, but only where it emerges as the best site for this purpose following the preparation, review, and adoption of the village plan by the Minister for Planning. This amendment does not get the site over the line, so to speak, as a site that is zoned for housing. What it means is that if, following proper review and assessment, this site does emerge as the best site for housing around St. Ouen Village through a village plan process, the Parish will not have to come back to me and ask me to review the Island Plan. If Field 622 does not emerge as the best site then any alternative site, if it is found to be outside the village boundary, will need to be rezoned through a subsequent Island Plan review. I am alive to the fact that the site has a considerable planning history and that there is much public opposition to it. The independent planning inspectors have advised that there are significant planning issues that need to be addressed as part of the assessment of the site. Its release for development could be visually prominent and would result in the loss of good agricultural land, affecting the potential viability of an agricultural holding. So the challenges are great and the Parish will need to face these head-on when they deal with the assessment of alternative sites and the justification for whatever site emerges from this process. I am willing to support and help them do this with the resources of my department. In saying this, it is important to address some of the comments made in the Constable’s report where reference is made to previous support and joint working with the Planning Department. What my department has done is to provide consistent, impartial advice about the procedural options open to the Parish, as well as the issues to be addressed to explore and test the prospect of the development of this site for housing. This should not be construed as prior endorsement of any proposal for the site which, like all others, remains to be tested through due processes. But I am now persuaded that the Parish of St. Ouen are committed to the village plan process and one that will expose the assessment of sites to a proper and open process of scrutiny and engagement with parishioners. The other matter that needs to be stated is that this proposed amendment does not confer any form of exemption from the Housing Gateway. I expect and require any homes provided on rezoned sites in St. Ouen to help contribute to addressing the Island’s overall need for affordable homes. This does not preclude their provision to St. Ouennais who might be over 55, but what it does is to

require the allocation of homes to be made through the Housing Gateway to those who are most in housing need.

[11:45]

In summary, I am willing to support this amendment on the basis that the Parish of St. Ouen is willing to undertake a robust review of all potential sites through a village plan process that is open to public scrutiny and engagement with parishioners at the outset. Secondly, the Parish accepts that any homes arising from the rezoning of precious greenfield land help contribute toward the Island wide need for Category A affordable homes where they are allocated to prospective tenants and/or purchasers through the Housing Gateway. The Connétable's amendment sets out a willingness to work with me and the Minister for Housing to achieve these objectives and to test whether Field 622 is indeed the most appropriate site to provide homes to St. Ouen's Village, within the context of this current review of the Island Plan, rather than any subsequent one. With that I support the amendment.

Deputy R.G. Le Hérisier:

I wonder if I could ask the Solicitor General a question. Without in any way impugning the integrity of the Minister for Planning and Environment, could he confirm that if we were to accept this amendment and the advice of the Minister for Planning and Environment, this in no way implies an obligation under Planning Law in the future were there to be an application on this particular field.

The Solicitor General:

If this amendment was adopted and then there was a planning application then clearly it would be for that application to be considered. While I accept there is not an obligation to grant a planning application that is submitted, obviously it must be assessed within the Island Plan's policies that exist. Obviously if it is refused and the applicant thinks that decision is unreasonable they can appeal, so I suppose it is the normal principles.

1.3.3 Senator L.J. Farnham:

Can I start by declaring that I do own 2 agricultural fields of approximately 15 vergées in size in St. Ouen. They are not in the immediate area but I just wanted to let Members know that. The Minister for Planning and Environment has probably covered most of what I wanted to cover, and Deputy Le Hérisier's question was also helpful. I wanted to ask the Constable to ensure that the village plan process will examine all the alternatives, even revisit some of those that were looked at to make absolutely sure that the Parish is choosing the right place. I am uneasy about this, I have to say, I live in the Parish, I have attended the site with the previous Constable and the Deputy and it might be the best we have but I still think there are a few stones unturned that we need to look at. But I just want assurance that even some of the sites that have been previously dismissed will be revisited to make sure we are absolutely right.

1.3.4 Deputy A.K.F. Green:

It gives me pleasure to stand up for once in this debate and support something. **[Laughter]** I believe the Parish own 622, or the church own it and the Parish indirectly own it. We have a Parish here that has a site it wants to develop, it wants to support village life. I am one of the people that do not really agree on taking good agricultural land into housing but if you are going to support St. Ouen's village life where are they going to build homes for their elderly folk and their young people? The only way they can do it - and I will come back to the other option in a minute - or perhaps the best way unfortunately is to rezone land, so I think this is quite justifiable and I will support it. I cannot remember whether it was the inspectors or the Minister for Planning and Environment, it has been suggested that the Parish look at the density of the existing homes for the

elderly and redevelop those sites. That is great and I know from experience that probably can be done. But from experience, before you can do that you have to have somewhere else to put those people if you are going to redevelop the site in which they live, of course that is always an upsetting thing to do anyway for people in the twilight of their years. I suspect the village plan when it is done may well show that they could redevelop some of the existing site, in addition to developing part of 622, and provide even more much needed homes to support village life, to support the elderly, to support young families, and I support this amendment.

1.3.5 Senator I.J. Gorst:

It is a difficult thing for the Chief Minister to get involved in, parochial politics, but I am going to. This is a difficult amendment and I am extremely grateful for the Connétable's opening comments and an acceptance by the parochial authorities that a village plan has to be done. I think that is the best way forward and I am pleased that has been accepted. It is always contentious when a greenfield site is proposed to be developed and there are individuals across the Parish who are uncomfortable with that fact, and I believe that developing a village plan will go a long way to showing that proper process, proper consultation, proper consideration of all the sites - which may have been undertaken previously - is done again so that everyone can be confident that the right site is delivered for these homes. I suppose what I would like the Connétable to do in his summing up, however, is to acknowledge that the parochial authorities would not support any other application coming forward on this site - because I think that is important - until a village plan is completed, particularly if another site is decided as the most ideal site. I do not think we would want this site to be for anything else, I think it is only because of the place that the Parish finds itself in that there is any support for the site. So I think we need to make clear that there would not be support for any other application. The other thing that slightly concerns me about this process is that sometimes a fact that a site has now been rezoned can be considered a material fact and used as a material fact in trying to say that this is the best site because it has been rezoned. We have to make sure that is not an argument which is run, and I hope that the Minister for Planning and Environment and his department officers are listening to make sure that is not the case either. Each site must be taken on its own merits, regardless of the current zoning, because that is the only way that we will build consensus and build acceptance of a particular site. The other thing I think the Connétable said, which is right, is that the Parish will need the support of the Planning Department in order to undertake this village plan, as I think all Parishes require, and I think that the Planning Department should do that because that will expedite the process as well. This is the right way forward, the village plan is the right way forward. I am not against the rezoning, what I am concerned about is that we get the right site for these homes and we need to make sure that nothing that we do today means that the wrong site is developed by accident. That needs a number of undertakings, not only from the Connétable but also from the Planning Department as well.

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

I will be very brief. When I came in today I was minded to oppose, but after hearing the Minister for Planning and Environment's explanation, the need for the village plan, and the consultation, I think that is the correct way to go. All sites need to be evaluated, not just this one, therefore, I will support it.

1.3.7 Deputy J.M. Maçon:

Again, like Deputy Higgins, I have found this one to be a difficult one. But I do have to remember what I said to my electorate, and in my manifesto I made quite clear that I did not support development on perfectly good and viable agricultural land. I suspect in the grand scheme of things this amendment will be passed, but I just want to put on record the reason as to why I will not be supporting this. I went to my electorate saying that I would not support development of good

agricultural land, and I am standing up here today to say that I would encourage other Members to do that as well.

1.3.8 Deputy J.A.N. Le Fondré:

I like the Constable of St. Ouen and I like the Deputy of St. Ouen, but unfortunately I think they are not going to be very happy with me today. I have certainly had representations - as have a number of us, I believe - from residents who opposed this site. But also more importantly I had representations from parishioners in my Parish opposing the site who are very connected with the agricultural industry. Bearing in mind my general stance - similar to Deputy Maçon - is about not rezoning and building on greenfield sites, that is my fundamental problem with this. So when I put that up together I then looked at some of the arguments - and I have not accepted all of them - that some of the people have put towards me, but my fundamental reason is the one I have just established. I accept fully and I very much welcome the comments from both the Minister for Planning and Environment and also I agree to an extent with some of the comments from the Chief Minister. But my real concern is when I pull the foot in the door. The way it has been put to me: this is a rezoning in principle. Certainly the query when I agreed with the Chief Minister is about the concern over whether the fact this has been rezoned makes it a material factor in any considerations and, therefore, makes it the easy way to go. Certainly in the proposition of the Constable he does make reference to 22 sites, 15 in the Green Zone and 7 in the Built-Up Area. I am very supportive of the Parish of St. Ouen looking to do a scheme. My preference is very much that we know what that scheme looks like before we rezone the land. It is doing it the right way around, as it were. I do not like the principle that we are going to rezone this and bank it and then we are going to work out where to put the sites, and of course it will be fully independent. I am not casting aspersions but in the nature of things it will be easier because that field is rezoned, or more importantly, and that is even from the Constable's own mouth, as we all know if people look on that page 6, it is hard for a very large field - or depending on your viewpoint, one-third of a very large field - so I do have concern that one rezones that area and it will not be next year, it will not be the year after, but then the erosion will be into the other large fields in that area. What was certainly put to me, and in fact does go back to the inspector's report ... I do make the point, obviously I did not take part in comments on this one, I was part of the examination in public process, and it is interesting because they certainly confirm it is a very prominent site in the Green Zone. They make a distinction between Field 402 and St. Martin and this field. I am going to read a couple of comments from the inspector's report, because they are the independent comments and I think it is worthwhile just substantiating those: "The main objections, and they are substantial ones, concern its intrusiveness into the countryside and its agricultural value." Just to reiterate the point on both of these it can readily be distinguished from, for example, Field 402: "The tenant farmer was among the objectors." That is as distinct from the owner but that is what the report says: "He indicated that the remaining half of the field would be very difficult to farm, and it is needed for food production." But the interesting comment here is that the rural economy team objected to its loss. The other thing, I think, it goes back a little bit to what are we voting for, and indeed I was wondering whether there has been any impact from the adoption of the proposition for St. Martin on the impact on this. I may be getting semantic but initially the amendment is to drop this site in immediately after Field 402. I am assuming we are taking the principle and taking the wording, but the actual format of that means possibly it might end up under the control of the St. Martin's Housing Association. I do not think that is the case but I am just wondering how the wording goes.

[12:00]

But the key thing there, there has been a bit of focus - particularly in the report of the Connétable and also from the Minister for Housing - about providing accommodation for the elderly. That is

fine but this is being rezoned for social housing, so there is a distinction between the 2. It may be the good intentions of the Minister for Housing are that they will be supportive of the Parish in doing the allocations through the Gateway, and that is fine, but that is only as good as the present Minister for Housing. That is not casting aspersions, but principles will change as Ministers change so we have to look at what we are rezoning it for. The interesting thing, and this is obviously the January 2014 hearing, they made reference to a previous examination by a Mr. Bushby who found that there was insufficient information and justification, and that was in relation to local need. But the inspectors in 2014 agreed with that comment. I think it is also worthwhile making the point that in terms of the site, and, yes, there are certainly local objections, but in terms of the main examination in public there were 125 responses on this, 97 objecting. I certainly know that some of those are not from within the Parish of St. Ouen because I have had representations, and fundamentally it is about the loss of agricultural land. The issue then comes down to the examination of sites and the inspectors say: "We turn to the question of alternatives." Another matter in which a previous inspector, I will use the term, was not satisfied. It does say: "An examination has taken place of a series of alternatives around the village. While we were impressed with that study we do not feel that we can simply accept its findings. They have not been the subject of consultation, even in many cases with the owners of the sites in question. They have not been independently assessed or scrutinised." Then it carries on: "We turn to the question of a village plan, and none exists." That comes back to the point that whichever way it goes the Parish will have to do a village plan. I think my angle would be I would like to see the village plan done first and then come back for the rezoning. I am not really comfortable doing the rezoning, saying this field is fine and we are going to do a village plan, because it will tend to leave people I think to assume, even if that is not properly the case, that because it is rezoned 622 will be the easy option. I would much rather they went back, did the village plan, then justify 622 and come back because the point has been made: if the village plan - which has to be independently signed-off I think by Planning anyway, so it has to be robust - turns around and says: "Actually 622 is not the right site, it should be another one" then naturally it has to come back to this Assembly anyway. I am very much of the opinion that one should do it the right way around. The conclusion by the inspectors: "We conclude that a village plan should be prepared, the alternatives need to be fully and independently assessed." At that point their recommendation was that the site was deleted from the Island Plan, which is obviously why the Constable is trying to put it back in, that work on the village plan is completed as quickly as possible with a view either to reinstatement or the addition of alternative sites. So in summary, as my position absolutely is about I do not support greenfield development. I accept the dilemmas St. Ouen has by the fact they are surrounded by a lot of fields and, therefore, on the balance of probabilities they are going to go somewhere, this is a very prominent field so I think one needs to be very clear that the case has been made. I am not convinced at this stage that the case has been made, I think it has been done as: "We are going to bank this one and then see what we can do" and I am not comfortable with that approach. It needs to be rigorous, it needs to be robust, and I think it needs to be done first. If at that point - and the parishioners have signed-up to it - then I might well change my stance but at this stage I am not supporting this proposition and I would suggest to Members the precautionary approach, it is better not to support it at this stage. Thank you.

1.3.9 Senator F. du H. Le Gresley:

Deputy Le Fondré has made most of the points I might have made so I only have a couple of things to add. This is a wedge. We talked about wedges yesterday. The wedge for the Le Quesne's Nurseries was on disused greenhouses. This is a wedge on a piece of land, 9 vergées which is farmed regularly, and the current tenant farmer does not want to lose it. I suggest this really is the wrong use of agricultural land and it is not supported by the rural economy team. However, my final point is I think St. Ouen have a problem because they have money from this generous

benefactor who wants them to build or wanted them to build homes for the elderly. That is the problem they have, this money is probably burning a hole at the bank and not getting enough interest and they want to get on. But they already have 38 units and I would suggest that is not bad for a Parish that does not have a very high population. I used to live there and I know the air is very good in St. Ouen and they all live a long time. But, nevertheless, they now want another 19 units that takes them up to 57. What is going on in St. Ouen? Why do they need all these homes for the elderly? I am a bit confused. Other Parishes do not seem to have this massive demand that is 100 per cent full occupancy, many individuals on the waiting list. I am not convinced that we should be sacrificing a 9 vergées field in the Green Zone for unproven demand for homes for the elderly in St. Ouen.

1.3.10 Deputy C.F. Labey of Grouville:

I speak for the agricultural community in the Island and as this is a perfectly good agricultural field in current use I simply cannot agree with the amendment put before us. Unlike other sites that have come forward where we have to provide housing for future needs, they have each been taken at their own merits. Some I have supported, some I have not. The couple of sites yesterday, one of which was almost completely unusable, I would suspect, for agriculture, it is already concreted over for the best part. But, anyway, taking every site on their merits, this one simply cannot just be rezoned for possible housing use. I believe the monies that were left to the Parish were left to them in order to provide homes. They were not conditional on acquiring this field for homes and I really do not feel enough work has been done in looking at alternatives of other sites. There may be other sites but they may not be - if I dare suggest - as good value as an agricultural field at agricultural values. The building inspectors required the Parish to come back with a plan some 7 years ago. I do not know why that has not been forthcoming and I would really like to see what the alternatives are, but I really cannot agree to this field just going to housing.

1.3.11 Deputy G.C.L. Baudains:

I believe that at one stage the Island was fairly level, but of course with all the building in St. Helier and St. Clement it has sunk down on one side so naturally then I support building on the northern Parishes to redress that balance. [Laughter] I am grateful they are pulling their weight now in providing housing but, having said that, I do have some concerns. As the previous speaker was saying, I believe planning inspectors have apparently opposed this site on more than one occasion. I hope the Constable will address this. I am not clear whether a village plan has been prepared, as I believe one was required. I am also not clear whether the majority of parishioners support this because there does seem to be some division in the Parish over this. But my main concern is similar to the one I had for the St. Saviour site that Deputy Le Hérissier brought to us, and that is what happens next? Because looking at this plan of Field 622 it is a workable agricultural field at the present time; once you take that slice out which is being proposed the rest of the field is going to become difficult to manage, it will be unviable and ultimately that too will then be taken. I come back to the argument how much longer are we going to keep concreting over green fields. It does strike me - and I think Senator Le Gresley alluded to this - that the Constable is desperate to find a site but I have to ask is this the best option?

1.3.12 Deputy J.H. Young:

I too feel uncomfortable about this because here we have a site which is not in the Minister's proposed amendment, did not survive the planning inspector's report, has a whole history of previous rejections, and it is open land, it is currently worked in agriculture, it will extend the western boundary of the village, and we have not had a village plan. So I am really troubled about the notion that says zone it but do not worry, it will still be subject to a village plan, because I cannot see anything in the proposition that accepts the fact that there is going to be a need for a

village plan. We could be in danger of making a zoning decision when there are still quite significant issues to cover in respect of this field. I fully support the Parish initiatives. If this were over-55 housing or sheltered housing where there are special needs, but clearly there seems to be an issue that I cannot see clarity about this. The proposal is that it would go Category A through the affordable Housing Gateway, and yet a lot of the talk in the paperwork and the submissions is it is going to be for sheltered housing. I am troubled about that. So there are these issues that are in the air. It is probably the clearest proposal we have yet had of urbanisation of our countryside, where I think, on all the other sites in the debates we had, that issue was not as strong, but in this one it is. So I certainly do not want to see wholesale growth in our countryside any more than is necessary because of the need to resolve those issues. I think a lot of progress has been made for the village plan. As I understand it from the Minister, if that process of the village plan gets underway and this site does come out, it could come forward for zoning at that point at a later stage. So I am troubled here about sort of being asked to do it now as an add-on to the Island Plan.

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

I would first like to start by recognising that some of our parishioners and some Islanders do have significant concerns, as do some of the States Members that have spoken today, regarding the rezoning of land for housing. I can also stand here today as one of the representatives of St. Ouen to say that our parishioners, the majority of whom support and have always supported the rezoning of land to ensure that we provide for our community, and indeed share and support and help deal with Island need. Obviously being selfish we tend to look at ourselves first and I am sure that we already know that is generally the case across the Island. That is not a bad thing because it is important that you support and provide for your own community because that is where our strength as an Island comes from. I have to pick up a couple of the points, first of all that the Minister made, and I am grateful generally for the Minister's comments. But there is one misconception and a statement that has been included in the planning inspector's comments that is absolutely and totally untrue, and it is this: that the viability of an agricultural holding is at risk. The tenant is a large farmer who resides in the Parish who farms approximately 1,500 vergées. We are talking of part of a field that we wish to rezone of approximately 3. The tenant farmer, as the Constable already said, has never objected to the rezoning of this field. Never.

[12:15]

If you choose to question what I am saying ... then I wish that the Deputy of St. Lawrence - rather than wait until today to raise his concerns - would have come and spoken to me first because I would have told him the truth, and the Constable will absolutely confirm this when he sums up. The comments the Constable also made about the field are equally true. We do not want as a community to, as I say, rezone land unnecessarily. But our village is all rezoned land and it was provided over 40 years to support and help our Parish to flourish. A lot of the development was first-time buyer homes, 40 years ago through to 10 years ago roughly. Alongside of this we were also aware that we had demands from our more elderly community and so one of the first, if not the first Parish, we recognised the need to provide for these people within Parish-owned homes, what is currently known as social housing, over again the last 30 odd years. It is true when Senator Le Gresley speaks about we have increased our number to 27 units now. They are all full. Part of the reason why they are full is that there is the need, we have demonstrated a need. The Minister at the last planning inquiry that we attended confirmed the need and that is today's need. The reality is, and we all know, that it is going to take at least 2 or 3 years to be able to finish and complete any development anyway, 3 years on I cannot tell you what that demand will be but I can tell you one thing, it will be greater not less. The Parish has been and always sought advice from the Planning Department over many years to help realise our dream of continuing to provide for our parishioners. We have had and seen developments around St. George's Estate and Les Landes

School in the past, it is a mixture of first-time buyer and social housing, and indeed another field which is not mentioned about obviously because we are concentrating on 622, Field 745 in that same area that will equally provide social and affordable housing. Some will argue: "Well, you already have a site, why do you need another?" Well, I am sorry but anyone who has ever been and visited Les Landes School will find that it is a very isolated situation with no amenities and we have heard mention of poor bus service in St. Clement and St. Saviour; well you want to visit St. Ouen, to find out what a poor bus service is. It is not the place to provide additional homes for our more elderly residents, especially when this site, 622, is very close to our other sites and our other homes. You only need to visit the Parish and speak to many of our tenants who live in our homes, there is a community within a community and they help and support each other. That is why, as I say, time and time again we have come back to 622 as being the best option. That is not to say that now - and I will say only now - that we are clear and we have had a clear guidance provided by the Planning Department that with some confidence ... and we know what is required from a village plan. Certainly if Members of St. Martin or St. John would stand up they would say St. Martin took 5 years trying to struggle through and developing a village plan, St. John have taken 3 and I am not sure if their outcome has been extremely successful. Part of the problem has been in the past it was not clear what was required, and equally it was something that was just dumped on a Parish to sort out. That is not the way it should be. It is not the way the Minister for Planning and Environment wants it, neither is it what is described in the Island Plan. I come back to the Island Plan and the process. The Island Plan is supposed to set out a vision and a route for the next 10 years and cover demand for the next 10 years. Village plans cannot be done in isolation, it should be done in concert with an Island Plan. We are not aiming to avoid being transparent and open about what we want to do, and that is why the amendment is being brought that clearly identifies 622. This is not new. Planning Departments over many years have identified 622 as a potential site for development and for various reasons it has come in, it has come out, it has been moved around. Now we have the scoping document now we are very clear that we are going to be supported by the Planning Department in developing the village plan and all of the consultation that is required. I hope not only will it allay the fears of some individuals here in this Assembly about how the Parish will take this forward, but equally those that have genuine concerns about whether or not this deal should be developed. Because the village plan as it has been described to us and reinforced by the comments made by the Minister is going to be robust, it is going to allow that full, open, transparent approach. What we are doing today is basically saying to you: "Look, we believe from the work we have undertaken today that the rezoning of part of 622 is the best option. However, we are going to carry out a village plan." Deputy Young mentioned earlier and questioned what is the process, I can refer him to the amendment that has just been made for Field 402. Field 402 quite clearly - which is another site - is subject to the preparation and adoption of a village plan. So St. Martin is still required to undertake and develop a village plan which the Minister will then consider before movement further on 402. All we were doing by bringing in our amendment was saying: "Well, that sounds a very sensible way forward for St. Martin, what about St. Ouen? Why should St. Ouen be singled-out to be different?" I know we should be different at times, we like to be different. But in this case we believe that it was more equitable to follow a process that was already being promoted by the Minister. Deputy Baudains, his main concern is what happens next. I wish I could tell you. I wish I had a crystal ball. All I know is that at the moment, regardless of what decisions are made within this Assembly around controlling population, we continue to see our population numbers increase, and with that comes demand for homes and other infrastructure. I think it is important we have to manage, but it is also important that we cannot ignore the need. When a Parish comes to this Assembly and says: "We have a need, we need your support in enabling this need to be met" then I hope due regard is placed on that. One final thing, some are suggesting that the most generous bequest of one of our parishioners to help us in our endeavours to continue to provide additional homes for the elderly is a bad thing. I

think we should be extremely grateful to that parishioner for recognising - as many other parishioners do - that there is going to be an ongoing need, and providing us with a considerable sum of money to help us meet that demand. That is not a bad thing, that is a good thing. That is something that we can stand up here today and say, by the way, once we have completed our village plan, once we have all the approvals from the Minister for Planning, not only do we control the land that we want to build on - if it is confirmed to be 622 - we have the money in our pocket to deliver the site without going anywhere. Who else can say that?

Deputy J.A.N. Le Fondré:

May I make a point of order on the previous speaker, and I do hesitate to incur his wrath, my good friend, the Deputy of St. Ouen, but he stated to me that the tenant of the land never objected. All I can say is that firstly it is included in the inspector's report, and secondly - thanks to my other good friend, Deputy Young - the letter is dated 8th June 2013, it can be found on the website, and it specifically states that the loss of just one of these fields would result in the closure of the farm. That was his submission.

The Deputy of St. Ouen:

The reality is - and I will repeat it - the tenant of the land is a large farming company who farms approximately 1,500 vergées. The individual that came and spoke to the planning inspectors was a small farmer who also lives in our Parish who has an arrangement with the tenant to use the land after the crop of potatoes has been grown. He is not a tenant, there is no subletting. This is a private arrangement that the individual has entered into with the recognised tenant of the land to make use of it. Sadly that was not made clear at the time of the inquiry and it was not corrected in the report. As I say, if you would like the telephone number of the tenant who I am quite happy to give it to you so you can phone him up and confirm it yourself.

The Deputy of Grouville:

I think we have established it is in full agricultural use though.

1.3.14 The Solicitor General:

I just want to add a few words to what I said earlier in response to a question as to whether there was an obligation to do something if the land was rezoned and I just wanted to make this comment, given some of the speeches that have been made. I know this may sound very obvious but once land is rezoned it is rezoned and I say this from the perspective of the owner. They are entitled to make a planning application in accordance with how that land is rezoned. It seems to me that it is at least arguable that where the village plan comes in I think the owner would be perfectly entitled to argue that it is all very interesting that other sites are being looked at and considered, but at the time the planning application goes in they are entitled to have their application determined as their land is zoned at that time. One can see in the context of a large development that an owner would have to accept that a village plan may be relevant in determining the details of the development of a large number of houses. But I do want Members to be clear, I have to say it is rather inelegant from a legal point of view what is being said in some quarters and I think the owner may very well have a lot of force in saying: "Look, the village plan is of limited relevance. Once you decide to rezone my land for development, that is where we are."

Senator F. du H. Le Gresley:

Can I seek clarification from the Solicitor General? He was talking about the rezoning of this particular field and the amendment states that the area of the field is 4 vergées, but we have been told that it is 9 vergées, so is it possible to add half a field and get it wrong, or right?

[12:30]

The Solicitor General:

It seems to me the States can add any defined area it likes, whether it is a whole field or half a field. It is up to States Members.

1.3.15 Senator A.J.H. Maclean:

I am finding this really rather frustrating, as I am sure other Members are in some respects, and I am sure you are, Sir, for different reasons. We seem to be debating a number of similar propositions, this is the latest in a line, which is virtually turning this Assembly into a 51-person planning panel, which is extremely difficult, clearly without having more detailed information. I find it difficult from my perspective with my hat as Minister for Economic Development. I see some agriculture land here, which clearly looks on the drawing to be a very good piece of agricultural land. It is all very well saying that the tenant farmer farms 1,500 vergées and this is just one tiny bit. It is very easy to have a continual creep, a little bit here, a little bit there, and it all disappears. Chopping a field in half, I did not think it was possible to sell fields in parts like that, but clearly it is. Nevertheless, we do have this creep effect. What happens with the field to the front or the south, if that is the right way - I do not have the orientation on the map here - 623? That would seem to me to be another very obvious place to go in the not too distant future. I guess from my perspective, notwithstanding the impact potentially on agriculture, the flipside of the coin, of course, is much needed housing, affordable homes for young people and suchlike, obviously very laudable. We understand the pressures. I do have a view and I was talking earlier today with the Connétable of St. Helier that there is a substantial amount of opportunities for homes within St. Helier in brownfield sites and others that we are not exploiting. Frankly, that surely should be where the main focus is. It has to be where the main focus is. We need to be more creative in terms of looking at opportunities for good quality development within St. Helier, among other places. The Connétable is up for that debate, which I was delighted to hear earlier on. But getting back to the point on this particular proposition, within the document I also see it noted there has been a Parish Assembly. As Members would have expected, the Parish have been asked their views. What is not articulated here that I can see - and perhaps the mover of the proposition, the Connétable of St. Ouen, will just answer this question in his summing up - it does not state how many of the Parish attended the said Assembly, who was in support, what the split was, what percentage were for and against. There is also mention of a number of objections. I am sure that those nearest to the site will be the most likely objectors, but it would be interesting to have some more detail on that. I did note yesterday when the Connétable of St. Clement made his impassioned plea to save the 2 nursery sites - I thought he did an excellent job, incidentally, although he only got half of what he wanted - he had a petition on the back of that proposition, which was more than, I think from the top of my head, 1,300 parishioners who were supporting his proposition. I do not see anything from St. Ouen in this regard so perhaps the mover of the proposition could give us information as to how much support within the Parish in real terms there is for this change. I struggle with this. I would prefer to see the Parish working with the Planning Department putting together a plan that can work and that Planning can get behind and support. I understand some work has been done in the past. It was suggested to me - and this may not be true and if it is not then the mover can perhaps also sweep up this particular point - with the amount of work to date that the Parish has done with the Planning Department, if he could assist me with where the blockage may be it will help me in making my determination as to how I may vote on this matter.

Deputy M.R. Higgins:

A point of clarification from the previous speaker: would you prefer the plan to be done before rezoning or after rezoning?

Senator A.J.H. Maclean:

As I understand it, the previous Minister for Planning and Environment was giving guidance to the St. Ouen Parish about how they approach the issue of rezoning and finding suitable affordable housing. He suggested that that particular discussion and framework should be achieved in advance of.

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

Like Deputy Young and Senator Maclean, I am struggling a little bit with this. I am extremely wary and uncomfortable about speaking against a fellow Constable, but I am afraid I am going to have to on this occasion. I support any Parish that is looking for Parish sheltered homes but I just wonder how many people have visited this site. I did not need to visit it. I lived right next door to it for a period of 7 or 8 years on the southern and western end. Anybody that has visited the site, and I lived there for a while, would realise that this is on the edge of a very sensitive area with the marsh. It is an area that as much as people have said would not be a loss to farmers, I categorically disagree with that. I think that whatever reason the tenant has objected, I do wonder why because I have been woken non-stop all year round by the farmer farming the field and being unable to get to sleep at night when he has had his lights on driving up and down it ploughing it. So to say it is not good farmland is utter nonsense. For me, from experience, it would be totally unacceptable to lose a field like this. It is a greenfield site. I do not think it is the right place to put houses on. The access is terrible. I used to walk up and down it and got nearly knocked over I do not know how many times. I just do not think it is a suitable site. I am sorry that I cannot support the Constable of St. Ouen because I think he has done a fantastic job, but this is just not the place for sheltered homes. I would be wrong if I did not say something to that effect in this debate.

1.3.17 Deputy R.G. Le Hérisssier:

Very briefly, it is another one where there is a collision. In the St. Martin case it was a collision between the need for social housing and the wish of a Parish to regenerate its centre, and there were 2 policies in competition. What worries me, and like the Constable of St. Brelade I have been very impressed by the advocacy of the Deputy and the Constable, but I just get the feeling ... and it happened with the over-55 sites a few years ago where it seemed the overriding criteria often was that a field had been donated rather than that it was a suitable field. I am so glad the Solicitor General has intervened again because I am really, really worried that we have here a predetermined answer for some of the very good reasons put forward by the Parish representatives, but yet there still has to be a process which allegedly will look at different sites. Then allegedly, presumably - and the Constable can confirm this - having researched all these sites, the Parish planning group will then submit these sites to an Assembly for views, whereas we will then have put in the pot a decision which clearly says we believe 622 is ready for zoning. I have always believed - and I am glad the Solicitor General was able to partly clarify this - that by doing this we have predetermined the decision of that planning process within the Parish and given expectations to the owner, which it will be very, very difficult to argue against.

1.3.18 Senator P.F.C. Ozouf:

I am somewhat confused because I have spoken to the planning officers and read this and I understand that this is effectively an agreement that will rezone the site but, unlike the difficulties that we had with the St. Martin one, which I accept Members voted in favour of, it is subject to the Parish doing the work of the village plan. Now, that is not inconsistent and that is fine. In fact, we have said on more than one occasion all Parishes should be doing village plans. They seem sensible things and lots of Parishes are doing it. I see no difficulty, no inconsistency. This is an agreement in principle to rezone. They have to do the village plan. There has to be a consultation. If all that works and there is a proper plan, then we deliver the 80/20 and all of the requirements of the Gateway. We want supply. We have lost other supply. The Parish is on board. There is going

to be a plan. It is caveated. It is controlled. There is a staged process. I do not understand what the difficulty is. We should be supporting this one.

Deputy J.H. Young:

Can I seek your guidance on what the last speaker said about the proposition? The previous speaker said that this was a decision in principle subject to a village plan, and yet my reading of this proposition suggests that we would add this particular site to the proposals map as zoned for affordable housing as a rural centre. Could I have that clarification?

Senator P.F.C. Ozouf:

I am happy to clarify. I probably should not have used the words “in principle”. That probably was confusing. No, it is rezoned but it is conditional upon the Parish doing a proper plan. So that is the plan. If that plan does not work and that is not approved, then it will not work. The steps are there. This is a sensible way of going about a rezoning, which is more inclusive, has more consultation, is in the context of a plan, and if all of those modalities are satisfied, which the Planning Department has to be satisfied that the issues are there, the Parish Assembly is going to be involved. This seems to be a model of the type of rezoning that we should be doing, the Parish coming forward ...

The Bailiff:

I am sorry, Senator, it was a clarification that was sought, not ...

Senator P.F.C. Ozouf:

Yes, it is clarification of a good process.

Deputy J.A.N. Le Fondré:

I am sorry, Sir, I am completely confused now. Can I seek confirmation either from yourself or from the Solicitor General? I have understood from the Solicitor General that irrespective of the conditionality of the village plan once it appeared on the map the land owner is entitled to go and seek some form of application. Therefore, it is a rezoning.

The Bailiff:

I thought the Solicitor General had dealt with that already. Solicitor?

The Solicitor General:

Yes. From a legal point of view, one would prefer a village plan that identifies all the different potential sites, one to be selected as the best site, and then the States Assembly approves that that is the best site and then you rezone it. What I have advised just a few minutes ago was this. Once you rezone the land - and I know this sounds incredibly obvious - it is rezoned and, as I said a few minutes ago, from the owner’s point of view an owner, it seems to me, is perfectly entitled to argue with some force that to say that there is a village plan looking at other sites is rather irrelevant to any planning application they put in. Because until and unless their land is brought back to the States and rezoned in some other way, it remains zoned for that particular purpose. It seems to me that the village plan at best is most likely to be relevant to the detail of how a large development might work. It is not relevant as to whether or not they are entitled to make an application for planning permission, for example, in principle. While I am on my feet, can I just apologise to Senator Le Gresley? He is quite right, if Members rezone you are rezoning the whole field.

Deputy J.A.N. Le Fondré:

Sorry, that did follow on a thought I was just enlarging. The area that is shaded is only half the field but we are rezoning the full field.

The Solicitor General:

You are rezoning Field 622, the field.

Deputy J.A.N. Le Fondré:

Thank you, that is very clear on both.

The Deputy of St. Ouen:

I have to challenge that some of ...

The Bailiff:

I am just verifying, Solicitor General. The wording says: "Field 622, 1.8 acres, 4 vergées." Is that the whole field or not? That is what the amendment says, so presumably it is only 1.8 acres that is being rezoned.

The Solicitor General:

That was my initial thought, but when I looked at the law as to how the draft Island Plan is put before the States, one has to designate land for particular development or use. Land is described as the corporeal hereditament, so in other words it is the entire piece of land.

LUNCHEON ADJOURNMENT PROPOSED

Senator P.F. Routier:

May I propose the adjournment, Sir? **[Laughter]**

The Deputy of St. Ouen:

Please, before we adjourn, I have to challenge the Solicitor General because ...

The Bailiff:

No, you cannot challenge him at the moment, but he will consider it over lunch.

The Solicitor General:

Yes.

Senator S.C. Ferguson:

Before we adjourn, can I ask the Minister for Treasury and Resources why he has announced help for home buyers in the Budget before he has told the States Members?

The Bailiff:

I do not know what you are talking about, Senator. **[Laughter]**

Senator P.F.C. Ozouf:

Neither do I.

[12:45]

The Bailiff:

Can I just announce certain presentations before we adjourn? There is R.98 - Strategic Plan Progress Update, May 2012 - June 2014 - Inspiring Confidence in Jersey's Future - lodged by the Council of Ministers; R.99 - Sea Transport Policy: Direction to the Harbour Master concerning ferry services - presented by the Minister for Economic Development; the annual report and accounts of the Jersey Gambling Commission; and a report by the Public Accounts Committee, Health and Social Services Integrated Care Records Programme.

Connétable J.L.S. Gallichan of Trinity:

Could I just inform the Assembly I will be attending a funeral this afternoon?

The Bailiff:

Thank you very much, Connétable. Very well, the Assembly will reconvene at 2.15 p.m.

[12:45]

LUNCHEON ADJOURNMENT

[14:16]

The Bailiff:

We are now quorate, yes. Mr Solicitor General, before the adjournment a question had been posed of you and I think you were going to look at it over lunch.

The Solicitor General:

Yes, thank you. Can I address the Assembly on 2 points: (1) can the States rezone a part of a piece of land; and (2) the effect of rezoning? Can I start, please, by inviting Members' attention to the diagram that is at the back of the proposed amendment, which shows Field 622 and looks like that? Although Field 622 is drawn as one piece of land for the purposes of the Island Plan, in fact it is made up of 2 separate fields with 2 separate legal owners. In fact, there is a field on the left-hand side, which is not shaded and is in white, with quite distinct owners from the field on the right, which is shaded in green, which is the subject of the proposition. So the simple point is that, in fact, all States Members are being invited to do, if they wish, is to rezone the entirety of a piece of legal title; that is to say the right-hand side, which is shaded in green. Therefore, on the facts of the case, the issue as to whether or not the States can rezone a part of land simply does not arise. Sorry, just to speak secondly about the effect of rezoning, I just wanted to emphasise that there is no such thing in law as rezoning in principle. There is no such thing as rezoning that is suspended pending further work or variations thereon. What there is is land that is rezoned or land that is not rezoned. If land is rezoned and the Minister receives a planning application, he must consider that application having regard to how the land has been zoned at the time the application is made. The Minister may not, in my view, decline to entertain the application or delay it merely on the basis that other sites are being considered in the nearby vicinity. The Minister can properly, of course, look at the effect that, for example, a significant development might have on a village environment but that would have to be in the context of the fact that the land had already been rezoned for development.

Deputy R.C. Duhamel:

Could I make a point of order? It is not right that Members should knowingly mislead the House by making any statements that they should not have made. On the advice given to me by officers, I did suggest in my speech that it was important to state that acceptance of this amendment does not confer any form of endorsement of Field 622 as an appropriate site for housing over any alternatives. That advice and statement that I made has obviously changed, so on the basis that my speech then went on to say that the support of the amendment was predicated on that interpretation legally and the legal advice has changed, I have to inform the House that I was misadvised and I no longer support the amendment.

The Bailiff:

The Deputy of St. Ouen, you wanted to ask a question.

The Deputy of St. Ouen:

Yes. With regards to the description and the clarity that the Solicitor General has provided regarding the fact that the ownership of the 2 parts of 622 are different, could he also confirm that

the Parish is involved in the ownership of the part that is being put forward for rezoning and that in any event it would require Parish approval at a Parish Assembly for any application to be submitted?

The Solicitor General:

Yes, my understanding is that the right-hand side of Field 622, that is the part that is being proposed to be rezoned, is owned by the Parish, as I understand it. Therefore, yes, the Parish Assembly would need to consider the matter before any application was made.

The Bailiff:

Deputy Lewis, I had seen your light. Did you wish to speak or ask a question?

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

Yes, just very briefly. I thank the Solicitor General for that clarification. I, like many Members, was confused with the fact that both halves of the field shared the same index number, but I thank him for that clarification. I am not sure if I can still support the application but I will look again closely at it. I have a bit of information for the Deputy of St. Ouen. The large white vehicles that appear through St. Ouen regularly are not tractors. They are, in fact, buses [Laughter] and the number 8 and the number 9 run half an hour for periods throughout.

The Bailiff:

Very well, does any other Member wish to speak? Then I call upon the Connétable to reply.

1.3.20 The Connétable of St. Ouen:

I just wish to confirm with the Members here this afternoon that I am standing here in front of you today by the wishes of a Parish Assembly. That is why I am here. The Parish Assembly voted in favour of me being here to present this amendment, so that is why I stand before you. I am pleased that the Solicitor General has been able to clarify any queries that have arisen and I would just like to say again that nothing, but nothing, could ever happen in Field 622 unless it went before a Parish Assembly. Because of the Parish involvement with that field, it would have to go to a Parish Assembly for anything to ever be agreed. One of the regular questions that came up - if we were going to do a village plan or when we do a village plan, will we be looking at all fields or all sites around the village centre - yes, we will. I have already assured Members that we will look at every site. One Member spoke in the sense that perhaps we had not looked at many other sites. We have looked extensively at sites. We have ticked all the boxes that needed to be ticked, so we have looked, but we will go back and look again. When we do a village plan, the layout of the Parish may dictate that some of these fields may be better situated because we could have better pedestrian access or whatever is required to make those fields more usable. So I can assure Members that we will be looking at the sites. I hope for the Deputy of St. Lawrence the tenant farmer issue has now been resolved. There certainly was some confusion during the planning inspection, so we have explained that to the Deputy now. Can I answer the Senator's question with regards the vote that was taken at a Parish Assembly? The vote in favour of keeping Field 622 in the Island Plan was 101 votes and those against were 77. On the back of that, I do not think there is much more I can add. I ask for the appel.

The Bailiff:

The appel is asked for then in relation to the amendment proposed by the Connétable of St. Ouen. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 17		CONTRE: 25		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator P.F. Routier		

Senator A. Breckon		Senator A.J.H. Maclean		
Senator S.C. Ferguson		Senator B.I. Le Marquand		
Connétable of St. Clement		Senator F.du H. Le Gresley		
Connétable of St. Peter		Senator L.J. Farnham		
Connétable of St. John		Connétable of St. Helier		
Connétable of St. Ouen		Connétable of St. Lawrence		
Connétable of St. Martin		Connétable of St. Mary		
Deputy J.A. Martin (H)		Connétable of St. Brelade		
Deputy of St. Ouen		Connétable of St. Saviour		
Deputy J.A. Hilton (H)		Deputy R.C. Duhamel (S)		
Deputy of Trinity		Deputy R.G. Le Hérisier (S)		
Deputy A.K.F. Green (H)		Deputy of Grouville		
Deputy of St. Mary		Deputy J.A.N. Le Fondré (L)		
Deputy of St. Martin		Deputy S.S.P.A. Power (B)		
Deputy R.G. Bryans (H)		Deputy K.C. Lewis (S)		
Deputy N.B. Le Cornu (H)		Deputy M. Tadier (B)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy J.M. Maçon (S)		
		Deputy G.C.L. Baudains (C)		
		Deputy J.H. Young (B)		
		Deputy S.J. Pinel (C)		
		Deputy R.J. Rondel (H)		
		Deputy S.Y. Mézec (H)		

The Bailiff:

Before we move on to the next amendment, I would just like to draw Members' attention to the fact that we have in the gallery 2 distinguished visitors: Dr. Cafôfo, the Mayor of Funchal, with whom, of course, St. Helier has a twinning arrangement, accompanied by Dr. Caetona. So we welcome them, I am sure. **[Approbation]**

1.4 Island Plan 2011: revised draft revision - approval (P.37/2014) - eighth amendment (P.37/2014.Amd.(8))

The Bailiff:

Now we move on to the final amendment, the eighth amendment lodged by Deputy Young. It is set out in the running order and I believe it is one of those where the Minister and Deputy Young have come to an understanding. I invite Deputy Young to propose his amendment before the Minister proposes his amendment to Deputy Young's amendment.

1.4.1 Deputy J.H. Young:

I am pleased to confirm that is the case and Members will be delighted we are getting to the end. This is the last one of my amendments. I would like to say just one or 2 brief words to say why I have brought it before I pass over to Members and then hopefully the Minister's comments. This is an amendment to the policies for the housing section, but very much at the end of the housing section there is a section that deals with housing for, I think, special needs - it is described under Policy H7. My amendment is really designed to enhance and improve that section of the current housing policies. There is not a great deal of change in it. I think my concern throughout the entire Island Plan process was that I felt that the concentration on the main H1 sites diverted the attention away from both the housing requirements throughout the rural areas, the country districts of the Island, the Parishes, and in particular the requirements for homes for - my proposition talks about -

the over-60s. This is about facilitating an arrangement for planning for the future because, as we all know, we are in an ageing society and while we may not have the critical needs now - because there is no question that our Parishes have done a tremendous job in providing for that sheltered housing need and, indeed, Trusts and others - I do not think we can be complacent about it. The 2 parts of the amendment are that there is a requirement that the Minister for Planning and Environment will, together with the Strategic Housing Unit over the lifetime of the Plan, the rest of 7 years, review the need for sheltered housing, lifelong dwellings, for the over-60s and housing to meet the special requirements. Having done that, he will work with those stakeholders, including the Parishes - and my amendment is quite specific about that - to do so in partnership with the Parishes either through local development plans or village plans where they are in the Built-Up Area and, where they are not, subject to all the normal planning considerations there would be village plans and a requirement to bring forward proposals as part of further revisions on any sites for zoning. There is no hidden zoning in my proposition, nor any blanket zone or anything like that. What it merely does is marry with the existing policies but it is quite explicit that this policy now will - and this is the second part of the amendment, the changes to the actual policy - meet local area, Parish or Island-wide needs and there are consequential changes to point 3: "Complies with other policies of the Island Plan." That is a bit of a technical change because the present one in our current policy is very restrictive.

[14:30]

Now, I think the support for this plainly came from ... there was, I think, a general view that in principle we should be planning for the future for housing for the over-60s, the ageing population, in the planning inquiry. I think that was generally accepted. The inspectors were supportive. There were a couple of issues where I think the inspectors were a bit troubled. They identified the issue about the role of the Parish. I quote: "The Parishes have provided housing for the elderly. It is a very high quality." They said: "They have assumed considerable importance in this provision" and that the Parishes wish to do so and that they say that clearly there is the issue about that provision, whether it goes through the Parishes or the Housing Gateway. I was certainly very grateful that the Minister for Housing at the inquiry was very co-operative and he said this is an area where there will be flexibility in the Gateway. The inspectors accepted that was okay, but I think the proposition I have put here produces a framework for that to happen so that the Minister and the Strategic Housing Unit will explicitly work to this Plan. Now, I have not made this up. What I did is I have drawn upon past policies. In the past the Assembly has brought forward reports and propositions for the housing for the over-55s and, indeed, has gone and zoned a great deal of land. We have seen the products of it, some excellent schemes. Some may say they are low density but those issues, I believe, can be sorted out between the Minister for Housing, the Strategic Housing Unit, and the Minister for Planning and Environment, the present one or whoever lands that role in the future. I am setting a framework for that to happen. That is the reason for it. I hope Members will see it as pretty benign. It is important policy changes so that when these things happen in the future Members can turn to the Island Plan and see there are clearly established frameworks for it. Of course, the whole point of this is to help keep people in the communities in which they have spent the majority of their working lives with all those family connections, which I do not think I have to rehearse but if you want me to do that in summing up I will do so. But the proposition includes it, so I make the proposition.

1.5 Island Plan 2011: revised draft revision - approval (P.37/2014) - eighth amendment (P.37/2014.Amd.(8)) - amendment (P.37/2014.Amd.(8).Amd)

The Bailiff:

Is the proposition seconded? **[Seconded]** Now we have to take the amendment to the amendment lodged by the Minister for Planning and Environment, the terms of which are again set out in the running order. I will ask the Minister to propose it.

1.5.1 Deputy R.C. Duhamel:

The thrust of the amendment from Deputy Young is to give greater emphasis in the Island Plan to the need for planning and providing for the needs of older people, particularly in the communities where they live. This is something that I accept and support, particularly as each day passes and I get older, approaching the dates. This is likely to be increasingly important as greater emphasis is placed on people living in their own homes for longer and where, as a result, greater reliance will be placed on the formal and informal networks of community support. However, in order to be consistent I think this small amendment suggests that we should strike-out the age of over-60 and reintroduce the words of over-55, which is the established age group cohort that most people understand. Deputy Young has agreed that he will accept my amendment and I propose it in those terms.

The Bailiff:

Is the Minister's amendment seconded? **[Seconded]** Does anyone wish to speak on that? All those in favour of adopting the Minister's amendment kindly show? Those against? That is adopted.

1.6 Island Plan 2011: revised draft revision - approval (P.37/2014) - eighth amendment (P.37/2014.Amd.(8)) - as amended

The Bailiff:

So we return to the debate upon Deputy Young's amendment as amended. Does any Member wish to speak on that? Yes, the Deputy of St. Ouen.

1.6.1 The Deputy of St. Ouen:

When Deputy Young sums up, I would like him to explain to us 6.137 where he speaks about in response to local need or village plans, including specific proposals for Parish authorities for the development of sheltered housing, lifelong homes, *et cetera*, outside of the existing Built-Up Area boundary: "It will require the approval of the States to the rezoning of the land as part of a further revision of the Island Plan during the Plan period." Can he explain to us all exactly how he believes that sort of application and the process would happen, especially as it is outside the Island Plan process?

1.6.2 Deputy S. Power:

When I read Deputy Young's amendment and then I re-read the revisions in the interim review, I did not think it was necessary. That does not necessarily mean that I oppose it. Because when we read what the original text was, it was at 6.132: "The Minister for Planning and Environment wishes to ensure that new housing will as far as possible contribute to the needs of people with disabilities and those who require care, including the elderly, people with disabilities and other vulnerable people." I did not think that was unclear. I thought it was fairly clear. I know from the work that the Deputy of St. Ouen has done and Deputy Hilton has done and the Minister for Health and Social Services is aware of and I know from my work at planning there are a number of applications in the pipe to give young people in their 20s and their 30s the ability to live independently even though they have disabilities, and we have hardly any stock of accommodation on the Island for that. It is essential, in my view, that the department enables people with disabilities ... and it is not just the over-55s. It is not just the over-65s. There is a whole swathe of people out there who are living with their parents or who would be able to live somewhat

independently in a custom-designed unit were the stock available. I hope that in the next Assembly, whoever is Minister for Planning and Environment and whoever is on the planning panel, that these applications are welcomed and come forward because we do need them. My point is brief. I did not think it needed to be amended. I think what was there was clear, but I accept it and I think it is just brief comments.

The Bailiff:

Does any other Member wish to speak? Very well, all those in favour of adopting Deputy Young's amendment kindly show? Those against? I am sorry, Deputy, I did not give you a chance to reply but I did not think there was much to reply to. **[Laughter]**

1.6.3 Deputy J.H. Young:

There is no need. **[Approbation]** I am in Members' hands whether you would like those 2 questions answered or not. If Members withdraw their questions I am quite happy to sit down.

The Bailiff:

I think that your proposition was adopted without you needing to reply.

The Deputy of St. Ouen:

I did ask for a response from Deputy Young. **[Laughter]**

The Bailiff:

Very well, yes.

Deputy J.H. Young:

I think I am going to have to answer the Deputy's question, obviously, because it is relevant to the last item we had. I think the position is this. The policy provides for Parishes and the Housing Unit and the Minister to work together to look at what needs there are for this particular group, which is now a wide-ranging group including the special needs - that has not changed but I have merely added to it - and establish and plan ahead to say: "What provision do we have?" Where there are identified sites to enable that provision within the existing Built-Up Area - that does not just mean St. Helier, that means all the white bits in the Island Plan, wherever they are - then plainly that can go ahead and be dealt with without coming back to the States because the Minister for Planning and Environment will be able to deal with it under the process. But where we have a situation where that need arises within a community where there is not the built area, then it will have to be subject ... so one starts with this statement of need and then one looks at what opportunities there are in that locality meeting all the planning requirements, and produces a plan, the best one for that, which is a village plan. Then the Minister for Planning and Environment brings to the Assembly a zoning proposition, which is properly evidenced, proper rationale, to endorse that village plan that this is the right way to meet that. The intention of my amendment is that will go on throughout the planning period and so there is a step-by-step process. I think it is probably unfortunate that what has happened, there has not been that clarity on existing sites and I am hoping now we will have that clarity about that process. Of course, my amendment is not just designed to deal with the Parishes that are already active. A number of zonings took place in 2008 I think for certain Parishes and they have been very successful. Why I brought the amendment is because I wanted it to be explicit for all the Parishes right across the piece, including those whose needs are going to rise in the future. So I do not think there are any downsides but that is my explanation to the question.

The Deputy of St. Ouen:

For the sake of clarity, could the Deputy confirm that what he is suggesting or what is being proposed will enable the Minister for Planning and Environment at any time during the life of the Island Plan to bring to this Assembly a specific rezoning proposition?

Deputy J.H. Young:

I am not a legal expert but my understanding of the Planning Law is that the Minister has the job. It is only the Minister that can bring forward the Island Plan and go through the process we have done, but also the Minister is charged with bringing forward revisions. So it is not a question of once every 10 years and then you do it, it is the decision for the Minister. He has to make his case here, of course.

The Bailiff:

Very well, all those in favour of adopting Deputy Young's amendment kindly show? Those against? Reaffirming the vote. Very well, so that completes all the amendments. Just before we return to the main proposition, can I just on behalf of all Members thank the Greffier and his team? I think the running order was very helpful. **[Approbation]**

1.7 Island Plan 2011: revised draft revision - approval (P.37/2014) - as amended

The Bailiff:

So we return to the debate on the proposition as amended. Now, does any Member feel they have something to say? Deputy Le Fondré.

1.7.1 Deputy J.A.N. Le Fondré:

Very, very quickly, I wanted to thank the Minister for his approach on the whole Plan. I compare it to the ordeal we had on the earlier Island Plan - was it 2 years ago - which had the dubious pleasure of having the longest number of amendments in the history of the States, I think. What I did just want to say, and that is the only reason I suppose I am speaking, is that obviously today the big focus has been on rezoning of sites and we know that is always going to be controversial. One of the issues really is trying to say that occasionally - and I do not mean it by criticism or in any way along those lines but I thought I would put it on record - one comes across perceptions that there is a distinction between planning policy almost... well, maybe not planning policy but the interpretation or the advice given to architects and people who bring the applications in - that may be the wrong way of putting it - where the emphasis quite often seems to be on retaining consistency with an urban area with, for example, roof heights and things like that. All I was trying to put a marker down - I am not expressing it very well - is that for me if the focus of the States is on the protection of the countryside, there must be a time where, for the sake of argument, if we had a street line of 3-storey buildings, could the officers give due credence or consideration of perhaps making the application for whatever building is being considered perhaps go one storey higher in terms of an incremental increase in the number of units that can go on to a particular site within the brownfield area? For me, the focus very much does need to be, as has been echoed by the Members, particularly Senator Maclean and I am sure Deputy Duhamel is exactly the same, it is about using brownfield sites... when I say economically, efficiently. That is not necessarily squeezing a greenfield site with masses of houses or whatever it is, but if you are doing a brownfield site it is to see what extra we can get on to it. Just occasionally, I have certainly had conversations where the comment has been through the process it has been a struggle to get back what we wanted or people being focused on what the look is, and that is fine because this is all caveated about design quality, about the quality of life for the tenants in there, about floor space and soundproofing, both of which I have brought amendments to in the last Island Plan. But if the fixation is about being consistent with what is there already, I think we need to just try and open up that we may need to be prepared to go higher in certain areas, not hugely necessarily, because that

is the only way we are going to start mitigating this tension between the rural areas and the urban areas. That is not just about St. Helier; that can be in any Built-Up Area in the Island. I thought I would just make that comment because for me that is how I square the circle between my knowledge of the requirement for social housing provision, which was referred to yesterday, and my other roles in an honorary capacity and my definite political view of protection of the countryside.

[14:45]

1.7.2 Deputy G.C.L. Baudains:

This morning the Deputy of St. Martin's amendment was all about a Parish taking control of development in its own Parish. I was not here for the 2011 Island Plan debate, but having sat through the 2002 one, which was slightly longer if I recall correctly and more acrimonious than the one we are nearly finishing, it seems to me that a different process might be to advantage. I was thinking closer perhaps to the French model where planning issues are dealt with at local rather than at national level. I would like the Parishes to have much more power over planning issues instead of having planning imposed on them as we often see at present. The Parish invariably knows best which sites are suitable and which are not, and maybe we should move to a system where the only sites coming before this Assembly are those that have been put forward by the Parishes themselves. I would ask the Minister if he would consider looking into that possibility. I do commend him on the work he has done bringing this proposition, with the usual "but." Unfortunately, I am unlikely to be supporting it as a result of yesterday's vote on St. Clement. I am obviously not going to re-run that debate, but I cannot be party to the problems that that is going to cause. In general terms, one wonders how many more fields have to disappear before we take a serious look at an unsustainable immigration issue, which in my view is rather like a Ponzi scheme. A Ponzi scheme, as we all know, the longer you leave it the bigger the fallout when you eventually try to resolve it. The other issue which arises out of this, of course, is the more you concentrate social housing in one area, the more social division you have. That is an issue that I do not think we often apply our minds to sufficiently. We seem to ignore also the infrastructure issues, traffic, schools, major infrastructure issues, and I think we should be more mindful of those issues and less of some of the more minor ones. In going about it the way we have, I think it was not good planning and in my view basically a sticking plaster on immigration. As I said, for the reason of the totally unsuitable site in St. Clement being approved, I unfortunately will not be able to support the proposition.

1.7.3 Deputy S. Power:

I am grateful that this debate is almost over and I will take my cue from that and be brief. Indeed, there were times during this debate and the revision of the Island Plan that I was worried about repeating the mistakes of what was a horrendous experience in the autumn of 2011 because that Assembly was asked to approve a Plan that simply was not going to work in the housing component. We have proven it by 2½ years, 3 years after that debate, we are back here with revisions to the Island Plan. What I want to say is this. At the end of the 2011 election, the new Minister was appointed and a new Planning Applications Panel was appointed. The Minister and the Planning Applications Panel had to trial this untested Island Plan, this 2011 Island Plan. Time after time the Planning Applications Panel found problems in the application of the 2011 Plan and there were a number of meetings with the Minister throughout 2012 and 2013. To give the Minister credit, he took into account the lists of problem sites that the Planning Applications Panel had brought to his attention. Further to that, I can say that the Minister then visited those sites with me or with officers. Sometimes on a Sunday morning we would go out and visit different sites across the Island where there were issues. To give the Minister his due, he did factor-in the feedback from the Planning Applications Panel. I am certainly going to support the work of this

Assembly this afternoon in revising what was a thoroughly bad housing component section in the 2011 Island Plan. Finally, I just want to say that when the Minister for Planning and Environment invited me to chair the Planning Applications Panel at the beginning of 2012, I promised him I would ride shotgun for him and I did. It has been a pleasure to work with him and I think the results of how we trialled and how we applied the 2011 Island Plan are here today to show that in planning we do our very best to make this Plan work. I want to thank the Minister for his ability to lead the department in that time.

1.7.4 Deputy J.H. Young:

Very briefly, I fully endorse the remarks about the Minister's work here because I personally think that he has had to follow the procedure which was set down in law by his predecessor. He was not in a position to change it and I think that is a very heavy procedure. It involves a lot of formality. I think there is an argument that some of it is over-cumbersome. It has resulted in administrative complexity, all of which costs money. So my view is that in the future I would like this Minister or future Ministers to think more about a front-ended process because at the moment what tends to happen is the proposals and plans are developed within the Executive and then we put them into consultation and there is consultation at the back-end once the ideas of planning are already shaped. If you really want to do community planning, I think it needs more of a front-end process whereby the areas for long-term planning are worked-up, things like the future of St. Helier, the shape of the urban area, the really big, long-term issues. I do not think we can just sit back and wait for the next Island Plan and then go through the same process. We should be thinking that through now as to how we might structure that and it will certainly give us a greater level of commitment and understanding from the community. In the end, why do we have this Plan? The picture on the wall there, beautiful Island, how do we manage it? How can we make sure we accommodate all these very complex and demanding needs without spoiling it? That is a whole community issue, all stakeholders, right across, and we need processes to do that. I have tried to avoid taking up too much of the Assembly's time in my amendments, but I really feel they are improvements. In the end, I think we have improved the Island Plan for the future by this debate.

1.7.5 The Connétable of St. Brelade:

Just very briefly, under the new policy there is specific mention of the provision of potentially a new secondary school in the Green Zone. All I want is an assurance from the Minister - and I know it is written in the policy itself - that he will ensure that need is proven and that alternatives have been properly identified. I think it is important when you look at a strategic piece of build such as a school that all alternatives are considered. The last thing I think a Parish such as St. Brelade would need is a rushed through planning procedure. So it is really just to ask the Minister to ensure that such procedures will take full relevance within the department and ensure that what he says in the policy will be done.

1.7.6 Deputy M. Tadier:

What is refreshing about this process is that we have had a Minister at the head of it who has been willing to work with Back-Benchers and a wide variety of opinions in the Assembly. That is not something which is always taken for granted or which has been the experience even in this term of office. I would suggest that it bodes well for the future if at the hierarchy of our Government after the next election we can have such an individual or individuals in positions of power in the Council of Ministers who can say: "Come and see me. Let us see if we can find a compromise" understand what the issues are and have a much more inclusive approach in practice rather than just in words, which is what we were promised at the beginning of this term of office. I do congratulate the Minister notwithstanding, obviously, political debate that we have had and possible disagreements. It is a refreshing approach and long may that continue.

1.7.7 The Connétable of St. John:

As the former chairman of the Environment Scrutiny Panel, one of my first jobs when the Minister came in midway or two-thirds of the way through the previous term as the Minister for Planning and Environment, the Minister took on a very awkward portfolio. As we moved into the new House, or the current House, it became apparent, so much so there were moves afoot to even try and oust the Minister. He has seen everything through to the bitter end, and I am pleased to stand here today and congratulate him on the way he has handled it. We saw last week in particular the way he brought a whole host of amendments to the House and took them all through himself. He had a couple of officers outside over the last couple of days, but in general he has been able to answer all the questions himself, the odd one by speaking to his officers. It shows that we have a Minister like the Ministers for Social Security and Housing who are on top of their subjects. It is pleasing to see that the Minister for Planning and Environment has seen this all the way through.

1.7.8 The Deputy of Grouville:

Just very briefly, as I said when I spoke I think it was yesterday now - I have lost track of days - I was not and I am still not happy with the way that the H3 decision was not a decision by this Assembly, apparently a decision by the Council of Ministers going back on a decision of this Assembly, whereby they set aside what this Assembly decided. I feel I cannot support this. I acknowledge that the Minister for Planning and Environment has done an excellent job here. He has done exactly what he was charged to do. He was brought under pressure from various Members in this Assembly demanding that he bring forward areas for housing. He has fulfilled his obligations admirably. He has brought forward proposals which have been debated and decided whether they are going to be supported or not. So he has fulfilled his obligations completely and utterly, and by abstaining I want to make it clear it is not a reflection of what I think of what the Minister has produced here. It is my sheer annoyance with the Council of Ministers being able to do a U-turn on a States Assembly decision.

The Bailiff:

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

1.7.9 Deputy R.C. Duhamel:

In no particular order I am going to start with the Deputy of Grouville. I understand where she is coming from and she is perhaps in a position to share some of the frustrations that I have felt over the time it has taken to come forward with these important changes to our Island Plan. We all have our different opinions. I respect all of those opinions and she will be happy to know she is still my Assistant Minister no matter what. I would like to thank Deputy Tadier and the Constable of St. John for their kind words about what is, no doubt, a difficult job at times. But the point that I have to make is that I am a bit of a tip of an iceberg because the work that has to be undertaken for the Island Plan has to be seen in the context of us all working together. It is not, as I mentioned earlier, my Island Plan or the Minister for Planning and Environment's Island Plan. It is our Plan and, in essence, what takes place in the Assembly when we do debate these issues only serves to underline that point, although sometimes we do forget it, particularly when things are going wrong, and we start pointing fingers. I think it has been generally a good-natured event and certainly a lot shorter than the previous event. I am happy to take some credit and give a lot of thanks to all of those who have made it last as long as it has lasted and for your contributions. A couple of technical points: Deputy Le Fondré made some good points about the different styles of planning and he mentioned the system that has always been in my mind about what happened when there were changes at the top of the tree in terms of the Kings of France.

[15:00]

Edicts went out and Paris looks pretty much the way it is because there were a number of suggestions that were made at the change of office for another storey to be built on the existing buildings. I think he is right. Perhaps there is merit in what he is suggesting, that there is an opportunity to consider perhaps across the Built-Up Areas in particular to maybe go one storey higher on a unilateral basis. Of course, it is the uniformity that is brought about by everybody stepping in line to the same height that is something that we appreciate architecturally. This is being looked at but I would have to give assurances to the House, which I hope will be appreciated, if indeed we are considering in the longer term height going up to slightly taller buildings, there obviously will be a limit and that limit is of the order of 4, maybe 5 storeys. There is nobody within the Planning Department, either at the political end or at the officer end, that is suggesting that we have multi-storey towers of the type that we see in Middle Eastern countries despite how attractive they perhaps appear superficially. The whole essence of the debate has been about trying to correct some of the sins of the past and to ensure that any development that takes place, takes place on a compact basis. By that we mean that we recognise the sins of the past, up to a point, that we have spilled-out with ribbon development and although there are some reservations that perhaps the densities that we built up are too high in some cases or too low in others, the mere fact that we have built on getting on for 30 per cent of the Island, if we look at the map, and aggregate all of the dark Built-Up Areas, it is a huge chunk. In some areas I do not think we do ourselves justice. The fact that we do have elements of sporadic building and houses in the countryside belie the fact that we are nibbling into the Green Zone areas more and more, and if we get to a point, as in the playing of the game 'Go', that we manage to ring, as we have done in large parts of St. Clement, large open green spaces with residential units, that does devalue the greenness and the openness of the land within and set in train a whole stack of interest in building on that land, which is somehow devalued. Deputy Baudains, I would appreciate if he felt... even though he has said he cannot support the whole Plan, if he would reconsider. I do share his frustrations and disappointment that Samarès Nurseries was agreed by this House. I did not vote for it, I abstained, which was the right thing to do because if I am in this job into the future or not, I think it is wrong for the Minister for Planning and Environment to be pushing in one particular direction or another. It was a decision for the House. Notwithstanding where we have got to on that, I think what I have to say to him is that there are opportunities to work with the department and with the Minister for Planning and Environment and the Minister for Housing and others, and whomever is going to be involved in the redevelopment of this particular piece of land, to ensure on the basis of its size that there is a real opportunity to get it right and to show that because it is land that might well be in our ownership or indeed working in partnership with the people who own it there is an opportunity to show the Island and the private sector that when the States do eventually decide what they need to do, they can do it properly. I am hoping to see and excited by the opportunity that there is a chance to set out an exemplar project to show how we can move away from the bolt-on housing estate standard model that we have had in the past, and to start to improve the areas that need the improvement and to put back the community and amenity facilities that are missing in order to make the places more having a sense of place. Two final comments: I thank Deputy Power with his comments and his support. He made one point saying that the Island Plan is for a 10-year period but that does not fix things in aspic. So if any issues come forward in the intervening period there is always the opportunity, with the right Minister at the top, to pick up those issues and to make sure that the Island Plan is not a stepped programme, it is a continuous programme and up to date in every year that it is in its existence. A final word, I would like to especially thank Deputy Young. We have had our differences but I think he has shown a level of professionalism that some might expect from his Civil Service background, but I think having crossed the boundary and moved on to the political benches he has managed to find ways to support the political community in ways that shows that the Civil Service and the politicians can work together. He did make the point, and I think it is coming from his background and mine perhaps, that working together in partnership is really what

it is all about and having a more direct lead comes up from what the public want and is expressed through the Ministers and then passed over to officers is the right way forward to produce plans. I would endorse that point of view wholeheartedly. He knows that we are embarking on a series of urban workshops in order to sort out St. Helier once and for all. But we are not going to be able to do that without the complete support of all of those who live in St. Helier and the Built-Up Areas who work there, or who spend their leisure time there. So it is a real community and joint effort and the success or failure will be borne out directly in proportion to the ability and the way we work together. I have been buoyed-up by our partnership agreements to date and I think we can only expect better to come. With those comments I would like to recommend the Island Plan amendments in their Third Reading and ask for the appel and the Assembly's support.

The Bailiff:

The appel is asked for in relation to the proposition of the Minister for Planning and Environment. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 40	CONTRE: 0	ABSTAIN: 4
Senator P.F. Routier		Senator A. Breckon
Senator P.F.C. Ozouf		Deputy of Grouville
Senator S.C. Ferguson		Deputy G.C.L. Baudains (C)
Senator A.J.H. Maclean		Deputy S.J. Pinel (C)
Senator B.I. Le Marquand		
Senator F.du H. Le Gresley		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Connétable of St. Helier		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. John		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisssier (S)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of St. Ouen		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy of St. John		
Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		
Deputy of St. Mary		

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

2. Draft Road Traffic (No. 60) (Jersey) Regulations 201- (P.30/2014)

The Bailiff:

We come next to the Draft Road Traffic (No. 60) (Jersey) Regulations - Projet 30 - lodged by the Minister for Transport and Technical Services. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Road Traffic (No. 60) (Jersey) Regulations 201-. The States, in pursuance of the Order in Council of 26th December 1851 and Article 92 of the Road Traffic (Jersey) Law 1956, have made the following Regulations.

2.1 Deputy K.C. Lewis (The Minister for Transport and Technical Services):

The law in front of Members today is because on 10th March 2010, when I was Assistant Minister, the States asked that legislation was brought forward to ensure that cyclists were required to wear a suitable safety helmet while cycling in a case of persons aged under the age of 18, as a result of a proposition brought by Deputy Green. Subsequently, in a statement on 5th July 2011 the then Minister confirmed that following discussions with Deputy Green the draft legislation would only apply to children under 14 years of age. The Draft Road Traffic (No. 60) (Jersey) Regulations amend the Road Traffic (Jersey) Law 1956 to give me, as Minister for Transport and Technical Services, the power by Order to require children to wear protective helmets when on a pedal cycle on a road or cycle track. The draft Regulations also create certain offences, set fines for those offences, and give powers to police officers to ask for the child and his or her parents' name and address when a child is found not wearing a cycle helmet. If the draft Regulations are approved I will amend the Pedal Cycles (Jersey) Order 1998 to provide for the wearing of helmets by children on pedal cycles or trailers drawn by pedal cycles. I will also describe the standard for cycle helmets, how they are to be worn and set the age that cycle helmets must be worn, 13 years of age and under. As outlined in the proposition, the supporting Order will also provide for certain exemptions and other necessary provisions. The exemptions proposed include children riding on a cycle track where the pedal cycle is controlled by an adult pedestrian. Members will have seen these little trikes where the adult uses a long handle to control the bike. Another exemption is for children suitably restrained in an approved trailer complying with the relevant standard being pulled along behind the cyclist. By this I mean the little covered trailer where the child is held in the trailer by a seat belt and the trailer has a roll bar protecting the child in the event the trailer should overturn. Children will have to wear a helmet when being towed on a trailer bicycle where the child sits on a saddle, has handlebars and pedals. Another exemption for those riding are the 4-wheeled Bessie bikes on a cycle track such as along the promenade between St. Helier and St. Aubin, and an exemption for any male Sikh child required to wear a turban. The Order will not come into effect until 2 months after the Regulations are adopted to allow time to publicise the requirement to wear a cycle helmet and give those parents who have not already provided their child with a cycle helmet time to purchase one. Adopting the Regulations will also require the Minister for Economic Development to make an Order renaming the Consumer Safety (Protective Helmet) (Jersey) Order 2006, which covers crash helmets for motorcycles, as the Consumer Safety (Motorcycle Helmets) Jersey Order 2006, this is now in hand. I appreciate that since the States debate whether cycle helmets should be made compulsory there have been further calls not to bring in such legislation. I believe that States Members came to the decision with all the facts before

them and in deciding to support compulsory wearing of cycle helmets for children recognise their duty to safeguard the more vulnerable members of society. Surveys have shown that in the past 10 years cycle helmet use by children under 16 has increased from 22 per cent in 2003 to 86 per cent in 2013. Falling from a bicycle is the most common mechanism of injury identified by the Emergency Department at the hospital, being twice as likely than any other mechanism of injury, in the last report I read from 2011. While injuries to arms and legs prevailed head injuries accounted for over 20 per cent of the child casualties. Coincidentally, just over 20 per cent of these young casualties were not wearing a cycle helmet. While effective in reducing injuries for cyclists of all ages, evidence suggests using a helmet is more beneficial for a child cyclist. When I see these figures I can appreciate why. I expect other speakers will provide Members with arguments for and against the compulsory use of cycle helmets but we had that debate in 2010. The proposed legislation has been developed in consultation with the Minister for Home Affairs, the police, the Minister for Economic Development and local bicycle outlets.

[15:15]

This debate for the Assembly should focus on whether the proposed legislation asked of me to introduce is appropriate, will provide a light touch when the police come across young people who are not wearing a cycle helmet as they should, and will have the ultimate effect of reducing the number of young people suffering head injuries after a fall from a bicycle. I make the proposition and ask Members to approve the Regulations.

The Bailiff:

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

2.1.1 Deputy A.K.F. Green:

First of all I must thank the Minister for bringing this proposition. This is quite a personal thing to me and I will not apologise if I share some of the things that I shared with Members last time, but I have some new things to say as well. It was more than 4 years, as the Minister said, since I addressed the Assembly to propose this important and potentially life-saving piece of legislation. Many of my colleagues in the Assembly today had not been elected in March 2010, so I do think it is important that I explain my reasonings and my passion for this proposition. I do not often talk publicly about my family but 26 years ago my wife and I received that phone call, that phone call that all parents dread, that our 9 year-old son, Christopher, had been knocked off his bike. He should not have even been on a bike. He had asked if he could go to play cricket that evening after school. We were not aware that he would be cycling, but he did and he was not wearing a helmet at the time. The impact was a minor one. When he went to A. and E. (Accident and Emergency) they said: "Nothing to worry about. Take him to Robin Ward and everything will be okay soon." Midnight, he was flown to Southampton unconscious for life-saving treatment where he lay unconscious for a month. This was a minor accident. A minor impact. So minor that it did not actually leave a mark that you could see. It has left him with a traumatic brain injury which changed his life and our life for ever. He has made steady progress over the last 2 decades. He is in many ways a very remarkable, good-looking and much loved young man but he will for ever be unable to live independently. He will always require support. He will never work in a normal job. He is one of the fortunate ones that works with the Jersey Employment Trust but he will never have that proper job. Even at 9 he aspired to go into the Services, probably because I had and my father before me. He will never contribute to taxation. He will always, particularly once Jill and I are not here anymore, require the support of the State, and he is unlikely to lead the life that any parent would dream of for their child. Christopher is not alone. Sadly there are others in a similar position and their hopes and dreams going unfulfilled living lives in the shadow of what they might

have been. Unfulfilled life. There is no doubt, let us be absolutely clear, that the doctors who saved his life said had Christopher been wearing a helmet today he would not have sustained that traumatic brain injury. His life and our lives would have been radically different. Something I have not made a note of, but again seeing as I am bearing my soul somewhat, the young man we lost came back as a different person, and many of these people, and many of the Members of the Assembly and people outside will understand when I talk about living with somebody who is different to what they were. They will understand this if they have looked after somebody, an elderly relative, who has had a stroke. In body they look the same but in personality they are entirely different. We now live with somebody entirely different. Last night he disappeared. Last night when I was at the Parish Assembly my family were out looking for him, and this happens fairly regularly. On one occasion he disappeared for 2 days and was found by the police at Corbière. I say these things not because I want people to feel sorry for me but I want people to understand what traumatic brain injury is and how easy it is to prevent and how important it is that we look after our young children. In the debate last time I said that we would take great care ... last weekend I bought a new computer for home and I took great care in moving it about, made sure it was covered in bubble wrap, made sure it was strapped down carefully in the car and moved it home, and yet we cannot take that same care or some people do not see the need to take that same care with looking after their child's central processor, their child's brain. Broken legs repair. Broken arms repair. Brains do not. Nothing can change what happened all those years ago but here today we have an opportunity to reduce the chances of this happening to another child or another 9 year-old boy. Today we have the power to change lives and avoid years of emotional toll and financial burden on both the families and the States. In 2010 Members of this Assembly voted by two-thirds - two-thirds majority - to introduce a legislation to make cycle helmets compulsory for children in Jersey. In that debate the former Constable of St. Ouen, Constable Vibert, said if the introduction of compulsory helmets saves one life then it would be worthwhile. How right he was. Nothing has changed in that 4 years to give any reason to the question of the wisdom of this democratic decision. The only thing that might have changed is a greater acceptance that helmets are necessary, as the Minister was telling us, there is a greater acceptance of voluntary wearing of helmets. The evidence remains clear. Cycle helmets reduce the risk of sustaining head injury and brain injury. Cycle helmets save lives and prevent lifelong disability. You will, I hope, all have received the comments from the Environmental Scrutiny Panel on the merits of this proposition. The panel's comments were based on advice from a leading independent research organisation, the Transport Research Laboratory. I have to say, I do not know if Members read their emails this morning, but the email from a gentleman in Yorkshire I found entirely arrogant suggesting that this independent expert advice from the T.R.L. (Transport Research Laboratory) did not know what they were talking about and that Members of this Assembly and the Scrutiny Panel would need help in understanding the report. I found it utterly arrogant. But of course that gentleman is a member of the same brigade that had that £10 company, that £10 company I referred to last time with the very flash website, and I think I referred to it as all fur coat and no underwear last time. The R.T.L. is a leading authority on this issue and I congratulate the panel on appointing such a distinguished organisation to analyse the information, to investigate the effectiveness of helmets and the impact on injuries and the impact of helmet cycling legislation. The results are conclusive. Cycle helmets are effective. Legislation leads to increased helmet-wearing rates and reduced head injuries. Compulsory helmet law in Jersey is unlikely to have a major impact on cycling activity in Jersey. As you might suspect, I am absolutely delighted with the expert advice because it supports this proposition and it will enable the protection of the most vulnerable road users in our community. The children of Jersey are the most vulnerable road users. I welcome the Scrutiny Panel's unequivocal endorsement of this expert opinion and recognition that a failure to act on this matter could not be justified against the continuing toll of head injuries sustained by child cyclists every year. I commend my colleagues on the Environmental Scrutiny Panel for their scrutiny of

this hugely important issue. Members of this Assembly can be assured that once and for all the scientific evidence supporting this proposition is sound. Indeed, since we debated this issue last time new scientific evidence has emerged that strengthens the argument for the introduction of this piece of legislation. A recent study conducted by researchers at the University of New South Wales, Australia - and I will come back to Australia soon - published a journal in the Accident Analysis Prevention and they found that cyclists' head injuries in the Australian Territory have halved - halved - in the past 2 decades through the combined effort of compulsory helmet laws and improved cycling infrastructure. I know people will say: "That is because the level of cycling has gone down" but I will come back to that in a minute. The study also found that despite a rapid growth in cycling popularity head injuries, severe enough to require hospital admission, were declining at a rate of 4 per cent per year. That brings me - as I said I would come back to this - to one of the most regularly pedalled myths. I can assure you that compulsory wearing of cycle helmets will not reduce the level of cycling. Opponents of this proposition will tell you forcing people to wear cycle helmets will lead to obesity as people abandon their bikes in protest. This is based, we are told, on the experiences of other jurisdictions across the world where cycle helmet laws they claim has failed. It is a worrying thought and one I did not take lightly. However, as I soon discovered, the trouble with much of the so-called evidence from those opposing protective legislation is largely based on hearsay and promoted by a small, very well-financed, vocal majority. Many of you may even have come across some of these myths promoted by such people. But how many of you who have heard these rumours know where they have come from or the validity of them, or the science behind them. Rather than simply believing these statements, which most people would agree go against our natural thoughts, at the very least I thought these ... sorry, I find this very difficult at times. Rather than simply believing these statements which most people would say are counterintuitive, at the very least some folks might think they come from the members of the Flat Earth Society so I decided to conduct my own research. I contacted jurisdictions with mandatory cycle helmet laws. I asked them how their laws were working. Given that Australia is often used as an example of helmet laws being ineffective I thought I would concentrate my efforts there. I would like to - if you would just bear with me - share a few responses that I got back from Australia because I wrote a letter to the Minister for Transport... there is more than one Minister for Transport in Australia but I wrote a letter to the Ministers for Transport and if any Member after the debate would like copies of that letter I have them with me and they would be very welcome to take away copies. I wrote to Scott Emerson M.P. (Member of Parliament), the Minister for Transport for Main Roads in Queensland. This is what he said: "Bicycle helmet laws have had a positive impact on preventing or reducing the severity of cyclists' head injuries, which have been found to be the most frequent cause of death and long-term disability from bicycle-related injuries. Bicycle helmets are a simple and relatively low cost countermeasure that can save lives and prevent serious injury to cyclists." He went on to say: "Mandatory cycle helmet legislation is no longer considered a barrier to cycling participation and other issues. Other issues are a far bigger barrier to participation."

[15:30]

The Honourable Tony Piccolo M.P. Minister for Road Safety in the Government of South Australia said: "No study describes a direct link between the increase in obesity and mandatory helmet laws. While cycle helmet legislation discouraged people from cycling when it was first introduced there is no evidence to suggest that it continues to do so." Lisa Harvey M.L.A. (Member of the Legislative Assembly), Minister for Road Safety in the Government of Western Australia also reports favourably about the success of helmet legislation. She goes on to say: "Local surveys conducted by the Department of Transport suggest that compulsory helmet wearing has had little impact on recent cycling patterns. Main Road, Western Australia has been monitoring cycle numbers on selected routes in Perth and has registered a steady growth in the number of cyclists

with the overall growth rates for cycling of 18 per cent between 2009 and 2011. Furthermore, since 2001, the proportion of people who say that the legal requirement to wear a helmet is a barrier for not cycling has halved from 4 per cent to 2 per cent.” This myth that it stops people cycling because they have to wear a helmet is that. It is a myth. She goes on to say: “The laws have been in effect in this state for 20 years and the Government have no plans to repeal them.” We are very often told that Australia is about to repeal them and the Ministers are saying quite clearly not. Compelling - I think Members would agree - direct evidence from 3 different states in Australia that demonstrates the effectiveness of cycle helmet laws without long-term detriment to the number of people cycling. The Scrutiny Panel’s report also confirms that early studies based primarily on data from Australia in the 1990s following the country’s implementation of compulsory helmet wearing for all may have been misleading. It turns out that the impacts on cycling activity were not as dramatic nor as long-lived as originally claimed. Our experts at the Transport Research Laboratory stated: “It is reasonable to assume that mandatory cycle helmet legislation will have no long-term effect on public health” and I am pleased therefore to confirm that the Earth is not flat. It is a sad fact that cycling among children in Jersey has in the past declined. I believe that it will increase with the introduction of helmets if the phone calls that I get from parents have got anything to do with it. The number of calls I get from parents to ask me when wearing cycling helmets is going to be compulsory because they send their children out wearing their helmets but because other children are not wearing their helmets they take it off and hide it in the park or whatever. The number of calls I get from parents that will feel more comfortable about sending their children to school knowing on cycle tracks, on minor country roads, knowing that their children will be wearing a helmet, I think the evidence is there that cycling will increase for children in Jersey when cycle helmets are worn by all children. One thing that has changed since the introduction of this proposition in 2010 is that dozens more cyclists have been injured, and I thank the Minister for his research there at A. and E. The longer we delay the introduction of this legislation the more lives will be needlessly changed for ever. It is a fact that cycle helmets have been scientifically proven to protect the skull from brain injury and I could go on quoting that, but I will not. I will say that the Cochrane report by Thompson *et al* demonstrated that wearing a cycle helmet reduces the risk of brain injury by up to 88 per cent and for those of you who are not familiar with Cochrane, it is really considered to be the gold standard for evidence-based health care and research. I could draw your attention to a number of different other things but I think I am probably over-egging the evidence, but the evidence presented to Members in 2010, and we thoroughly debated this at the time when the Assembly overwhelmingly voted to introduce this legislation, that evidence that we saw then and the evidence that I have brought forward today has not changed ... the evidence from then has not changed and the evidence today is as robust as it was then, if not more robust. I thank the Scrutiny Panel for their hard work because they have confirmed it. It is human nature to resist change. People objected when wearing seat belts became compulsory. They claimed it was not necessary. I can remember my own father moaning when the motorcycle helmet law came in. He was going to abandon his motorbike. I do not think it lasted a whole day. He went out and got a cycle helmet. Some even argue that the bans of the use of handheld telephones was a step too far, and yet the safety benefits of all these initiatives are irrefutable. I am sure if we were able to check, and I do not have a tape recording today, unlike yesterday, but I am sure if we were able to check the record of these debates in this Assembly we would find that people would say things like: “This law will be difficult to enforce. This law will have people not coming on their bikes. This law will stop people enjoying life.” This Assembly passed another law in this sitting about smoking in cars. That is going to be difficult to enforce but given that 80-plus percent, probably nearer 90 per cent, of the community are good law-abiding individuals most of it will not need to be enforced. I have always maintained that the legislation is pro-cycling. It is an enabling proposition to encourage children to cycle safely. It does not seek to criminalise children. It does not need to. I am not proposing the setting up of a cycle helmet police squad because it is unnecessary because, as I said,

overwhelmingly, just as in Australia, the majority of this community is law abiding. Right across the world there are numerous examples of jurisdictions enforcing similar laws. None of them found it difficult to enforce the law. Why? As I say, because the citizens of the United States of America, New Zealand, Canada, Sweden, Australia, also share our deep respect for law and comply with it. Just as the parents in Jersey will have that respect and do have that respect, and they teach their children to obey the rules at school, to obey the law, to obey the rules at home and in our community. Cycle helmet laws are protecting children in 22 states of America. I am not going to read all 22 but I will just read out a few: New York, California, Washington, Pennsylvania, Arizona; that is an interesting one because those of you who watch some documentaries on television would have seen that is where the Olympic champion James Cracknell received his head injury and his life was saved by the fact that he was wearing a cycle helmet. Also, New Jersey. If we delay this debate further, and spend many more months and years debating it again, this law will wait to be developed as part of the Road Safety Strategy, how many more lives will be ruined? How many more families will face the challenges that my family have faced? If another child sustains a brain injury while we sit around talking about it, while we talk about the reduction in cycling use, which is a total myth, ask yourself: when they come to you for help as the Parish representative how are you going to look them in the eye and say that this decision was too complicated, too difficult, too soon, too hard to make. In conclusion, we, as elected Members of this Assembly, have an opportunity to save lives and prevent our children's futures from being devastated by brain injury. We have a duty. A duty to protect child cyclists who are among the most vulnerable people using our roads. In addition, but this is not the main thrust of my wish to see cycle helmets, we can save the taxpayers of Jersey enormous amounts of unnecessary expenditure on injuries that are entirely preventable. I see only 2 options for Members of this Assembly today. We can either do nothing and let this opportunity pass knowing that our children will continue to cycle on our roads without taking adequate protection or we could seize the moment. We can seize the moment and take that bold, that necessary step of introducing this vital life-saving piece of legislation. I ask the question: is it not time that the children of Jersey are given the same protection as the children of New Jersey. I apologise to Members if I have gone on a bit long but this is something very close to my heart and I urge Members to support the proposition.

[Approbation]

2.1.2 Deputy G.C.L. Baudains:

I fully understand Deputy Green's emotional attachment to this issue and I am not going to challenge his evidence in any way, but I do have some concerns and I would like to make 3 points. The first one is to me is the proposal does not make sense - to me it does not. If it is so important why is it only up to the age of 18? Do people over the age of 18 not matter? Why do we require motorcyclists to wear a helmet of all ages and not just those under 18? The second issue I would like to raise is the power to fine, in the second bullet point on page 3. So a person who fails to abide by police officer's request commits an offence liable to a fine of a level 2. What if the child is 10 or 12 years of age? I heard the Minister for Transport and Technical Services tell us it is going to be administered with a light touch, but how do you do that? You either break the law or you do not. It is like being pregnant, you either are or you are not. There is no halfway stage here. Thirdly, probably my main concern is, I believe we are looking at this the wrong way round because to my mind what we should be doing is regulating the cycles themselves. To me I think we should be preventing accidents not seeking to mitigate the results. When I was younger most cycles did not go very fast, they had tyres about that wide, occasional ones had a basket on the front. You know the sort of cycle I am talking about. But nowadays what I see mainly on the roads are what I would term racing cycles, that the tyres are as thin as my little finger, dropped handlebars, some of them have got caged pedals, and doing 30 or 40 miles an hour in some cases. As far as I can remember most of the recent serious accidents have been adults on these types of

cycles. It does seem to me that we have got it the wrong way round and we should be regulating the cycles themselves. Finally, I would say I can see exactly where Deputy Green is coming from and obviously there would be a benefit but why, in that case, if this is so important, are we not applying it to other areas of equal importance: children on skateboards as far as I can see are at greater risk than a child on a cycle. I am not sure I will be supporting this.

Deputy K.C. Lewis:

May I make a quick correction for the Deputy. It is 13 years of age and under.

2.1.3 Deputy J.H. Young:

None of the Members of the Assembly can fail to be moved by Deputy Green's very personalised account, and I know he has worked tirelessly both locally and nationally to have this issue of prevention of avoidable head injury, particularly to young people. I think the task ... and I know that because he and I were colleagues 25 years ago when it happened.

[15:45]

The task that the Scrutiny Panel had was, in a very short space of time, to try and get the evidence checked out because we have lobby groups, former Members of the States, members of the public telling us: "No, do not do this. Not only is it unenforceable" they said: "but it is going to go against promoting cycling, it is going to discourage people from cycling and so we decided to try and do our best in a short period of time and we appointed the experts. You have seen their report, and in our report we have set down a summary, which pretty well is as Deputy Green has spelt out. I might add that members of the panel, I think we all started on this mission feeling, although we empathise with Deputy Green, quite sceptical about whether or not there was merit in this legislation. For me personally I am certainly not one who imposes state control over things which might be regarded as private liberties but nonetheless this is a question of children's safety, and we have heard first-hand the devastating effects that can happen to young people's lives because ... and of course what we learnt from the evidence was very clear. The effectiveness of cycle helmets, there is no question that the biggest risk categories are to young children. Of all the figures, both those that looked at by advisers and the local figures, we asked for our local figures of injuries to be included in the Scrutiny Report, and they are there on page 13, and you can see that they are around between 20 and 30 head/face injuries in the Island - 115 children - are clearly at risk. All the evidence is that skulls of young people are far more vulnerable to that impact than adults. The majority of incidents giving rise to head injuries are not collisions with vehicles at all. They are apparently minor things; people falling off bikes, those sort of ordinary events at low speed. All the evidence is that the introduction of helmets does prevent those injuries. The area I suppose where there is a greater degree of ambiguity is what is the effect on cycling activity of introducing helmets and there is this controversy over the Australian evidence, which Deputy Green has outlined. Still, today, I got the challenge to the R.T.L. report this morning and of course we have been back to our adviser and they have given their comments on each of the points made, and I will just read one. This is in response to the evidence in this note this morning saying that our experts have misread the Australian data, and R.T.L. in response say: "This is an excellent example [that is what is being quoted by this note] of why it is important to understand underlying trends in cycling behaviour and at times serious data in general rather than make poorly informed assertions about small transient features." That is one. Now what I am happy to do, we can circulate those responses to all of the points. It was on my desk here after lunch and obviously I did not realise we had gone straight into his debate but if Members want that we will see that this goes around as soon as possible. I certainly felt that in that situation where the evidence was piling up, it is beneficial, why would we not do this? We spoke to the Honorary Police representative, we spoke to the Constable of St. Brelade, and it is true that it is going to be very difficult to enforce and it maybe it does not get

enforced, only in extreme circumstances, but it must be, in my view, a deterrent. It must help parents persuade their youngsters to wear helmets because otherwise there is a risk that the parent may end up getting some sort of penalty. I think we should support parents in this. So I see a strong parallel myself with the smoking in cars legislation that we passed the other day for young children. The evidence, on balance, I think the case is made. It will be difficult to enforce, only in extremis. When we get fixed penalty systems for all sorts of civil offences then this can help make sure we do not criminalise people unnecessarily, which would be a very bad thing. Nobody wants to have that. With that, I support this legislation, as I say, on balance. That is the conclusion of the Scrutiny Panel.

2.1.4 The Deputy of St. Martin:

I rise very briefly just to support my Chairman of the Environment Scrutiny Panel, and I would add another 2 very short quotes from our advisers that have come back to us at lunchtime today in response to the letter that upset Deputy Green so badly. His 2 very short quotes: “It is not true to state that the accident rate has been proven to be higher for helmet wearers per kilometre of travel. This is simply not an accepted fact.” Then on another page: “It is not true to state that the survey data shows major reductions in child cycling in both short and long term. This is simply not an accepted fact.” Members will have listened intently - indeed they did listen intently because I was looking at them - to Deputy Green, and I thank him for his emotional but still very well-argued and 100 per cent level-headed support for this subject. As my Chairman has already indicated, it was Deputy Green’s personal views and involvement in this important subject which was a large contributing factor in the decision by the Environment Scrutiny Panel to look at this tricky subject. We felt as a panel that all Members of this Assembly would appreciate a totally independent report on the subject to accompany our comments and finding such independent reporters was quite tricky and difficult at short notice, but find them we did, and I, for one, am grateful to have a factual overview to support my own personal view. That view, and the one that I have come to during the course of our work, is the same as the one quoted by Deputy Green, the ex-Constable Vibert’s view. If we can save just one young person from the circumstances so tragically described by Deputy Green then this legislation has to be worth it.

2.1.5 Deputy G.P. Southern:

It is very difficult to argue with Deputy Green when he presents such a personal case, however I believe both he and the Minister talked about light touch administration of this law and yet this law is not designed to be light touch at all. The Regulations create **[Interruption]** ... was that the theme to *In the Night Garden*? The Regulations create the offence, it says: “That persons will commit in relation to a child who should be but is not wearing a cycle helmet, the level of fine for such offences is up to £50.” Give powers to police officers among other things to ask the child’s age, name and address of the parents, names and addresses. “A person who fails to abide by a police officer’s request commits an offence and is liable to a fine up to £500.” That is the reality. It seems to me that that is extremely quite heavy touch. Up to £500 for a child refusing to co-operate with a policeman. I cannot believe this. That is one objection. I find it very difficult to vote for this. In an Assembly which tends to do code of best practice, encouragement, and rarely goes to the law to make things happen, this is quite extreme. The other question I have to ask is why under-14? Again, it is about the application of it. Can you tell the difference between a 13 year-old, 14 year-old and 15 year-old, or even a 16 year-old? I think you might be able to tell when you get over 16, it tends to be a bit easier but the difference between a 13 year-old and a 14 year-old is beyond me, I think. So when you stop this person and say: “How old are you, sonny?” You are going to get the answer: “Fourteen.” Whether you can test that out or not, I do not know. But that is the reality. That is a difficult area to then probe. So I have got serious reservations about the

approach adopted here. I am waiting to hear other people's arguments but I am finding it very difficult to vote for it.

2.1.6 The Connétable of St. Mary:

Like Deputy Green, I live everyday with the results of a head injury and I endorse everything he said about the person's never quite the same person afterwards, even with a much more minor head injury than Deputy Green referred to. That is why probably Members will find it hard to understand why I voted against the in principle legislation coming into force last time, and I did that for a number of reasons, partly because the age was different then. But also because as someone who has ridden motorcycle since she was 16 who rides a cycle regularly now again - I think Members know that I am a bit of a born-again cyclist - I would no more get on a bicycle without a helmet than I would go anywhere without my spectacles on, my contact lenses, it is just something that you do. I firmly believe it is much better if people can do things through education and through knowing that what they are doing is the right thing to do rather than simply because the State tells them to. On that limit, previously I was involved in a peripheral way with some education campaigns through the Beaver Scouts and everything, and I would like to commend all the work that the police have done at that time and other agencies with the little tests of the egg on the parachute wearing a little mini cycle helmet, that showed the youngsters from an early age how important it was to wear a helmet. It is remarkable and I commend everybody involved in getting our youngsters up to 86 per cent without any kind of legislation at all. I think that is really, really wonderful. Of course I am a democrat, the decision was taken, but even so we are looking at 14 per cent of people and we need to do something different to capture that last 14 per cent. I still say though that it is the fundamental responsibility of every parent to make sure that their children are protected regardless of whether there is legislation or not. I do have the reservations ... I am going to support this unless something dramatic happens in the debate, but I think the area of enforcement is something that we need to address. Firstly, I was very pleased to read the results of the Scrutiny Panel's work, which I think was excellent and timely, and I am very glad that that report finally laid to rest these reports of cycling numbers plummeting through the floor after helmets. That was one very conclusive piece of work. But the report did say that enforcement was going to be the sticking point. Other Members, Deputy Green, I think, have referred to other legislation we have passed in this sitting, the smoking in cars, for example. I know that in the social media at the moment people are saying: "Why are they doing this?" It is a great thing obviously but they do not even catch the people who are on the mobile phones and we see it all the time. People who are not wearing the safety belts. I was cycling yesterday in traffic in St. Helier and saw a car in front of me with 5 people in it and only one safety belt was being worn and yet nothing was being done actively to put... no policing measure had been effective in that because simply ... unless you are on the scene at the time it is impossible to see.

[16:00]

I just think that at least in those situations any officer seeing that or any member of the public wanting to report it has a registration number that they can then contact the officers with and say: "This car is being observed doing something or driving with a mobile phone" or whatever, and in my own experience the police will make a phone contact at least or perhaps a visit to give words of advice if it cannot be proved, or at least to have the conversation which raises the profile, which is good. But there is not really the opportunity to do that with a bicycle, especially if you are on foot and the bicycle whizzes past you, you have only got a few minutes. I just wonder whether the Minister for Transport and Technical Services is going to give any thought at all to some sort of registration scheme. In other countries, for example, there is also insurance requirement. Many countries have that built into the household insurance. When I bought my new bike recently there was an insurance option with it. I think these are things that need to be considered to support this

because my only down side with the legislation, as proposed in the Regulations, is that youngsters should not be given the impression that they cannot comply with the law and get away with it. That sets a bad example early on. I think we need to embrace that and to see what further measures can be done. Very finally, in conclusion there are really 2 steps to all of this security of our youngsters. There is protection, which this will take the step, and there is also prevention. As we have heard already, we have had a couple of nasty accidents, and I know one of them the victim, the accident victim subsequently went on into the media and said: "You know, for goodness sake, wear a helmet, do not have happen to you what has happened to me" which is commendable. But in quite a few of these circumstances, as Deputy Baudains has said, there has been a question of how appropriate the riding stance and the riding position prior to the accident was. I think more care has to be taken on the prevention. I am alarmed when I see cyclists oblivious to the traffic and oblivious to those around them wearing headphones listening to music. That to me is almost as dangerous as is driving with a mobile phone. I think there are lots of things we need to look at and I know there will be a road safety strategy. Cycling is fantastic. I think we have to encourage that and certainly everything we can do to encourage it, great. But we have to pay attention when we are putting another piece of legislation on the books; we need to give some indication that there will be a consequence because otherwise it is futile. We have done so well to get to 86 per cent. If we are going to hit that extra 14 per cent, there needs to be a real incentive to do it.

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

I am not sure at all if I am going to support this because we are told it would be applied with a light touch. In that case, what is the point of introducing Regulations? If we do not have a light touch and we decide we want to enforce it Article 45A creates 3 new offences and one of them is to criminalise a child because if they commit the offence of riding the bicycle without wearing a helmet and they are between the age of 10 and 13, which I believe is the prescribed upper age limit, they are committing an offence and they are liable to a fine of £50. What is the point in trying to criminalise children? What are we going to do? Are we going to haul them up to the Parish Hall, sit them in front of a Centenier, tell them that they have broken the law by not wearing a cycle helmet, and fining them £50? This is unbelievable. I cannot support this at all. By all means if we want to criminalise anyone it has to be the parent or guardian, or the adult who puts the child on the bicycle or was responsible for them and sees them on the bicycle without wearing the helmet. We cannot criminalise children. I am sorry, I feel very strongly about this. Ten to 13 year-olds, how are we going to manage this? Do they know about Parish Hall Inquiries? Well, they certainly will if they are on their bike and they do not wear a helmet because at some stage we are going to have to look at enforcing it. Even if we do not look at enforcing it, it is there, it is legislation, it can be enforced and I cannot believe that the Minister has brought this forward and is expecting to get it passed today. I see Members nodding. I cannot believe it. We are often accused of being a nanny state. I cannot remember if I supported bringing these Regulations or not, I am inclined to think probably I did not because it is down to education, it is down to, I think, us being able to look after ourselves and having a bit of free will. With regard to these children, it is laughable. It is laughable. There are parents over here, there are adults over here, who do not speak English as a first language. They will have their kiddies out on their bicycles on Victoria Avenue, on the cycle paths, will they know that the States of Jersey has implemented these regulations and if their child does not wear a cycle helmet, the child, not only the parents or guardians, is liable to be fined £50. Absolutely outrageous. I can think of nothing that the Minister for Transport and Technical Services is going to say when he sums up that will make me change my mind and support these Regulations. I am very disappointed to have them in front of us today.

2.1.8 Deputy M. Tadier:

I will not repeat those arguments, I think they were strong and I think I feel very much the same way. You cannot argue with the emotional argument put forward by Deputy Green. It is not possible to do that and it is a very personal account, but we are not here to make decisions on an emotional basis. We have often talked about in the past heart and head decisions. First of all there were 2 issues. Even if one was fully convinced that this was the correct thing to do, that it would save lives, it would save, even if it is not saving physical lives, head injuries. If that was categorically the case and if it was also the case that it would not have a detrimental effect on children's cycling and parents who wanted to go cycling with their children - which is not clear at all - in fact it is very possible. Studies have shown it will have a detrimental impact on cycling and it is not clear how that ties-in with the Sustainable Transport Policy and the other Health Department policies to try and get people to be more active. Even if that were the case, this is a completely shoddy piece of legislation that we have before us. First of all the age has already been addressed. Fourteen is completely arbitrary. Where else do we use under 14? For seat belts, okay, but seat belts are for everyone, are they not? I think everybody in a car has to wear a seatbelt in the front. So if it was the case that everybody had to wear a cycle helmet that would be understandable because presumably it is dangerous for adults to fall off their bike without a helmet. Is this going to be some kind of mission creep in that respect? The argument also has to be nipped in the bud about if you save one life from this then it will have been worth it. That is not true because if we save one life by putting a zebra crossing on every road where there has ever been an accident then it would be worth doing that but clearly it is not, it is about proportionality. One comes to realise very quickly I think in life, but also in politics, that you cannot legislate for everything. You cannot wrap everybody up in cotton wool. The Constable of St. Mary made some very good points, I thought. Head phones, I have probably almost been killed in the past and you can probably look back at times and think: "Well, that was a bit of a close shave, too close for comfort." You wear headphones when you are cycling perhaps. People who have lived in London say that pedestrians and cyclists do not always co-exist very well. Pedestrians are not always looking out for cyclists. Cyclists with headphones on are not always aware of the traffic. There is an element, well it is more than an element, of personal responsibility. Are we going to say that if it saves one life for somebody who is wearing headphones on a bike who gets hit by a car because he has not heard the car - I mean, you have got silent cars coming up as well, you have electric cars, that is going to have an impact - therefore the next step is to ban headphones for people who are cycling around because it is dangerous for them. If it saves one life then that is what we should be doing. Again, why are we putting into force legislation which is going to be light touch, oh no, it is not going to be light touch. We were told by the comments from Scrutiny, and I will read them out: "The view of the Constable of St. Brelade, representing the Comité des Connétables in discussion with the panel was that faced with other priorities the likely cost, both in time and financial of writing reports and follow up such minor matters at the Parish Hall and potentially beyond made it extremely unlikely that the new law would be policed consistently, if at all." What are the comments that we got from the States of Jersey Police? The States of Jersey Police also drew attention to the importance of prioritising their resources. That is coded, is it not? As well as pointing out that the absence of registration markings on bicycles would present some enforcement difficulties, one possible solution suggested on the spot fines. Okay, that is fine but we are not at that point yet. What I heard from Deputy Young, who also I thought had very guarded comments, he was not by any means in the usual Deputy Young style saying: "This is something we have got to do" it was very much ambivalent and I think he was saying - what I read between the lines - "Okay, if we have a scenario in the future where we have on the spot fines rather than Parish Hall Inquiries" which is what these will be, it will be like cycling on a pavement, cycling at twilight when you have not got lights. If it is going to be enforced, which presumably the public will want, it will go down that road. It will result in the criminalisation of these children. It will probably result in the criminalisation of children whose parents probably have a more lax attitude towards

them, who are out there cycling at night on their own, in this case without a helmet, and the parents will not necessarily be anywhere to be seen anyway. What will that do for our children? I fear the counterproductive side of this far outweighs any benefit because it is either going to be enforced or it is not. It cannot be one or the other. Those are essentially the points. To sum up, we have also known from the Scrutiny Panel that I was involved in, we cannot even police litter. When we put into force laws that cannot be enforced properly, it creates public cynicism, it is divisive, you get one side of the public who get angry because there is yet another piece of law that they have to comply with. "I just want to go out and cycle on my bike, now you are telling me I have to get cycle helmets for my children." Then you get the other side of the population who are there saying: "Why is that law not being enforced, I was out last night and there were people cycling along the front and I am sure one of them was 13, she might have been 14 or 15 but she looked quite young to me." Straight on the phone to the Parish Hall saying: "Constable, I have to have a word with you, I have been seeing people out their cycling and their children are not wearing helmets." Not only does it criminalise the child, not only does it cause extra bureaucracy for the Parish Hall, you are going to have say: "Sorry, we cannot do anything about that, we have had a word, we have got other priorities." It also criminalises the parents and it makes people point the finger and say: "You are not doing a right job" in a similar way to when we have children with a slight suntan nowadays, saying: "Look at that parent, they are not doing the right job, they have not given their children sun cream, even though they probably have." So for me, and I am not by any means one of those hard-line libertarians who thinks that the nanny state is out of control. For me this is just one step far too far, it is not well thought out, the age limits are arbitrary and the unintended consequences, I think, of this piece of legislation is going to be far outweighed by what is intended. Great intentions for this proposal, but something we need to kick out or at very best refer back because it is not going to do what it says on the tin.

2.1.9 Deputy R.C. Duhamel:

In a similar vein, I think we should really move on to the next item because the wording and the definitions leave large gaps at the moment. For example, we have been told under the definition of pedal cycle, it means bicycles, tricycles or cycle for 4 or more wheels if they are not motorised. Members will have seen and know about unicycles.

[16:15]

Unicycles have now been invented with gyroscopic devices, which is not a motorised device for propulsion but it is something to enhance the stability of the single-wheeled vehicle. So if we are going for pedal cycles, why does it have 2 or more wheels? The more wheels the more stable it is, which is an odd thing to be doing. Perhaps there is a new business that T.T.S. are thinking of getting into in the upsurge in interest of unicycles, if indeed this law comes in, as a sideline to bring in revenue to the department. The other thing is in the definition of where you can ride your bicycles. So this law only applies to on roads or on a cycle track. As mentioned by Deputy Tadier, what happens to responsible parents who, when encouraging their children to learn how to cycle, encourage their children to go out on pavements? A pavement is not a road and a pavement is not a cycle track, it is a pavement. So I think we have got a couple of difficulties. The third difficulty, I think, has already been mentioned. I have got no problem about the general principle that Deputy Green brings forward about protecting children's brains, but I think the brains after the age of 14 are just as important as below that age. I would have preferred if the normal definition for children would have been one that we went with. We seem to have a whole host of different laws which mention children at one particular age and if you are out by a year something does not apply. Smoking comes in at one particular age, drinking comes in at another, driving a car another, we are all over the place and I think I would have preferred had we started on the pathway towards trying to unify in a consistent fashion all of the ages at which people can be defined as children or youths

or whatever. This does not go anywhere near this and for those 3 reasons I think it is difficult to support and I would suggest that we move to the next item.

The Greffier of the States (in the Chair):

A number of Members have spoken, in that regard your proposition as an abuse of the minority, is your proposition seconded? **[Seconded]** Standing Orders require a proposition to move to the next item to be put immediately without debate, do you wish the appel, Deputy?

The Connétable of St. Lawrence:

Excuse me, before we do that, could you just remind me, as I am not as *au fait* with Standing Orders as you are, whether that means the proposition in itself falls and would have to come back in perhaps an amended format?

The Greffier of the States (in the Chair):

It could come back in its current form. The Minister would no doubt take account of any result of a vote and would possibly wish to amend it. But it could come back, it does not mean it falls automatically but obviously it would fall from today's agenda and we would move on to the next item. Very well, as it is an unexpected proposition I have allowed some time for Members to return to the Chamber but the vote is for or against the proposition of Deputy Duhamel that the States move to the next item of business on these regulations and the Greffier will open the voting.

POUR: 8	CONTRE: 30	ABSTAIN: 0
Senator A. Breckon	Senator P.F. Routier	
Connétable of St. Lawrence	Senator P.F.C. Ozouf	
Deputy R.C. Duhamel (S)	Senator S.C. Ferguson	
Deputy G.P. Southern (H)	Senator A.J.H. Maclean	
Deputy M. Tadier (B)	Senator F.du H. Le Gresley	
Deputy G.C.L. Baudains (C)	Senator P.M. Bailhache	
Deputy J.P.G. Baker (H)	Connétable of Trinity	
Deputy of St. Mary	Connétable of St. Clement	
	Connétable of St. Peter	
	Connétable of St. Mary	
	Connétable of St. John	
	Connétable of St. Brelade	
	Connétable of St. Martin	
	Connétable of St. Saviour	
	Deputy R.G. Le Hérisssier (S)	
	Deputy J.A. Martin (H)	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy K.C. Lewis (S)	
	Deputy E.J. Noel (L)	
	Deputy T.A. Vallois (S)	
	Deputy M.R. Higgins (H)	
	Deputy A.K.F. Green (H)	
	Deputy J.M. Maçon (S)	
	Deputy J.H. Young (B)	
	Deputy S.J. Pinel (C)	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy R.J. Rondel (H)	

The Greffier of the States (in the Chair):

Now, Deputy Duhamel, have you concluded your remarks?

Deputy R.C. Duhamel:

Yes, Sir, and I thank all those Members who managed to get back for the vote.

2.1.10 Deputy J.A.N. Le Fondré:

I just want to start off from the principle that the reason we are here is because this Assembly, or a previous Assembly, asked the previous Minister to bring the legislation. That Assembly, and in fact I voted for both parts of the proposition, which was splitting it to one for a particular age and one for everybody else. That Assembly decided to reject the point about everybody else wearing helmets. That is why we are here today. The previous Minister decided to change the age limit lower because that was in consultation with the Honorary Police at the time and with Deputy Green from the point of view of trying to make it enforceable. So if anybody wants to blame anybody you have to blame the previous Assembly for creating where we are today. It is not going to be easy. That is, I think, one of the reasons of taking the time it has to get to where we are. Bearing in mind the request is about legislation, you cannot bring legislation through and not have some form of ability somewhere to enforce it. Time and time again, I have to say that the principles behind all this are, and we keep saying light touch, and it is, I think, Article 89 of the main law, allows it to be dealt with by the Centenier and that is a Parish Hall Inquiry. Therefore that is the point, that there is provision in law that it can be dealt with through the honorary system and would rather expect that hopefully one would get to the point that in the first instance that whoever is dealing with the individual probably would not even take them up to the Parish Hall, would probably speak to the parent and say: "Your child is meant to be wearing a helmet." It is only when you start getting reaction back or persistent behaviour that it is then going to start going up through the process. So, in my view, it is giving the ability to parents, particularly, to tell your children: "No, you have to wear this because it is against the law now." There were a couple of points, and unfortunately in the rush to clear my desk when moving on to the next item was called for I think one of my papers has disappeared. But that does answer one of Deputy Baudains' queries, he made a comment - he is not here anyway - about skateboarders, for example, are not allowed on the road whereas cyclists are and that is why we are legislating for cyclists. The issue about free will and all that type of stuff, I think we have got the 2 issues there. One is we already legislate for things like seatbelts. We have just legislated for smoking in cars and children, so at what point does society decide to take the angle that we do need to send a message to children to protect their brains at the end of the day? I think Deputy Green has spoken very eloquently; yes, emotionally, but it is from direct experience. Life has changed. The analogy I used at the time, 4 years ago, was I like skiing and that is my one annual holiday. I would not say I ski a lot, I do not ski as much as I would like to, but probably up to 8 years ago I never skied with a ski helmet. I do not know what speed one is going down there but you can probably get up to 35, 40 miles an hour relatively easily and if you do fall over the possibilities of bashing your head on the edge of a ski, on the hard ice, or whatever are fairly high. Interestingly enough if you look how society has changed, the number of people certainly where I go who are now wearing ski helmets to protect their heads is considerably increased, even among Austrian people I know who have been skiing all of their lives who I have just managed to keep up with now but they are somewhat older than me, if that makes sense, and starting to slow down. So bring that back to cycling and certainly we know cycling helmets do not protect in every instance but the latest research, as we heard from Deputy Young ... and that is the evidence, a well-fitted helmet is better than no helmet at all. It does reduce the risk of head or brain injury by approximately two-thirds in crashes regardless of whether a motor vehicle is involved or

not. Upper facial injuries are also reduced. I am quoting from information I have previously been provided with. I think studies from this year alone ... energy corresponding to a cyclist being thrown at 20 kilometres an hour or it says a 1.5 metre drop - what is that, 4 or 5 feet maybe - can change the probability of severe brain injury - so wearing helmet this is - from extremely likely, 99.9 per cent risk, to unlikely, 9.3 per cent risk. The modelling showed that in higher energy scenarios drops from up to 3 metres, that is how they measure it ... I think the 1.5 metres is the principle of you falling off your bike. The acceleration suffered by the skull was still 4 times smaller with a helmet than without. So in other words, from empirical evidence, certainly based on the information I have been given from the advisers that Scrutiny have had, wearing a helmet makes a difference. That is trying to address the queries raised by, I think, Deputy Tadier. So on that basis wearing a cycle helmet is a good thing. The obesity arguments seem to be laid on their head, particularly by the Australian studies. The free will argument is still in existence because what one is saying is to children of 13 and below: "You should be wearing it to protect your brain" after that it is a matter of choice. I do not agree, I have to say, with the matter of choice, I think everybody should wear them but that argument was lost. This is the instruction of the Assembly and on that basis I think we have had a lot of those arguments ... in fact I think the data has probably got better, and on that basis we should be supporting the regulation.

2.1.11 Senator P.M. Bailhache:

The Assembly has heard, I thought, rather negative speeches. Surprisingly negative speeches from the Constable of St. Lawrence and from Deputies Tadier and Duhamel. If they feel that the age of criminal responsibility is too low then they should do something about it and bring an amendment to the legislation. If they think that a child should not be criminally responsible at 10 but it should be 12 or 13, then bring an amendment to the law so that that is the position. But the present position under our law is that if a child deliberately breaks a window or deliberately breaks another child's arm or rides a bicycle on the road without lights, he commits a criminal offence. Now, is that child going to be taken before the Centenier and prosecuted? Probably not, but at the end of the day if a 10 year-old child is so deliberately delinquent perhaps the criminal law is the only way in which that child can be protected. The real question is whether it is desirable to protect the heads and the brains of young children. **[Approbation]** I believe that most reasonable parents do ensure that their small children at the moment ride their bicycles with helmets. The purpose of this legislation, as I see it, is to protect the children of parents who are not as responsible as those responsible parents. Now, that seems to me to be a sensible change. Attitudes change. I can remember, as I have skied over many years, hurtling down the slopes with an unprotected head, fortunately without suffering any problems as a result, it is in the last 2 years or so that I have, perhaps unwisely at my age, been skiing I have worn a protective helmet. As it happens, the very last time I did it I had a rather serious collision with an ice slope and I was extremely glad that I was wearing something that protected my head. Things change and this Assembly should change too. I think that the Minister has brought a very sensible change to the law, which ought to be supported. I do agree that one might question the age of 14. One might in fact have put in a rather higher age. Personally I would have preferred that certainly if one begins with children from 10 to 14 at least one is making some progress and I support the Minister's proposition.

2.1.12 The Connétable of St. Martin:

I had no intention of speaking today because I thought it was going to be a straightforward proposition and accepted by everybody. I am in disbelief that it has gone this far. Nobody likes change, we know that. We have seen changes and I have been involved in various aspects over the years. There was the introduction of crash helmets. That was the first time. I was a young apprentice at that time and I had to wear a crash helmet. Nobody wanted them. Mobile phones,

that was a later thing that came in. How was that going to be policed and criminalised people? Seatbelts. Suddenly stopping and doing the stand-up test for breathalysers.

[16:30]

Stand on the road as a police officer making people's eye move around and walk in a straight line. Nobody wanted the drink drive change. That changed. This is just another change. This is not to criminalise anybody at all but it is another road safety thing. I think Deputy Le Fondré has said a few things and I have been writing them down as I have been listening to the debate. Deputy Tadier spoke on 5th July when the Minister made the proposition that he was going reduce the age from 18 to 14, and the Deputy said he was going to probably support it at that time, so I am not sure how the change has come about now. I would just ask the Minister if he could confirm, taking names and addresses of children is not unique and I think he might confirm in his summing up, we have got the same legislation that applies for children carrying drink on the street. That was introduced not that long ago. You can take the names of the children, you can take the drink away and demand to see their parents later. I have got 3 grandchildren - I have got 4 but the fourth one is too small to ride a bicycle - the 3 of them love wearing cycle helmets and they expect it. Before they get on their cycle they all ask where their helmet is and they put it on. This is the time, even at those young ages, so as they grow up they are wearing them. We are educating them as young small children. I have got a cycle helmet and the only thing now I need is a cycle. **[Laughter]** It looks the part when annually we go down to the Weighbridge with the States Members. No, I will get a cycle. I have dealt with many fatal accidents and serious accidents involving cycles and I really sympathise with the Deputy this afternoon when he made his speech. I know Deputy Le Fondré covered this a little bit, but I say to the Constable of St. Lawrence, surely the very idea of the parochial system, the Honorary Police system that we have, Parish Hall Inquiries ... how often has the Bailiff said in the Royal Court at swearing in time, taking oath of office, how important their role is. The Centenier has a Parish Hall Inquiry to take people out of the criminal system by dealing with them at a Parish Hall Inquiry first. There are words of advice, you take them down with their parents and speak to them. Then later on you might have caution, that is the next step up. The fines, we talked about the maximum fines, this would not be the maximum fines. Maximum fines for the very worst thing, £50. That is the most it can be anyway but it will be lower than that. The only thing I disagree with with this proposition is that it does not apply to adults as well.

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

I share Senator Bailhache's views about the amount of negativity shown towards protecting our children at the start of his speech. I would like to align myself with that part of his speech. I would just like to quickly remind Members we are not unique in doing this. Australia introduced it in 1989, Austria in 2011, children under 12. In Canada, New Brunswick, 1995; Ontario 1995; British Columbia 1996; Nova Scotia 1997; Alberta 2002; Chile 2009, mandatory in all zones; Czech Republic, children under 15; Croatia 2008 and yet Jersey finds this difficult. To carry on: Hungary 2010; Iceland 1998 for children under 15 and yet all we seem to be worried about is how we are going to police it. Other countries have introduced it. In India they have got it. Italy they have got it, but they do not police it, they just make it a requirement to wear it and people are pulled off the road and told: "Go and get a helmet before continuing to ride on your bikes." I think I have said enough, the world is doing it, we just need to wake up and protect our children.

2.1.14 Deputy A.E. Pryke of Trinity:

Like the Constable of St. Martin, I thought this was going to be fairly easy because this is the right thing to do and I thought that is what this Assembly was here to do. I would like to think that most of us, all of us, are law-abiding citizens and like what I stressed with the smoking debate earlier this week - yes, this week, it seems to be a long time here - that it is changing the culture. We are not

here to criminalise children, it is the last thing we want to do. We want to protect children and this is what this proposition is going to do. The Constable of St. Mary mentioned that 86 per cent of children already wear cycle helmets, well that is great, it is the other 14 per cent that we need to encourage and we need to press, and this is the way to do it. Deputy Green in his speech was very passionate and at the end of the day it is that result that is the cause, that is bringing this, that it really does make a difference to family life, whether unfortunately that child may die or have long-lasting effects. It is a fact that children are more likely to have accidents when cycling than adults. It is a simple fact. Also hospital admission data from the U.K. (United Kingdom) shows that over half of all cycle injuries involve children. It is the leading cause of death among this age group. That is the thing that we have to hang on, it is the leading cause of death - accidental death - in this age group. This is the right thing to do. We need to get that 14 per cent and if this is the way to do it then it is the right thing. These are young brains where even a minor accident can have such damaging long-term effects and if wearing a cycle helmet prevents that then there is only one way forward. I will be supporting this.

2.1.15 Deputy J.A. Martin:

I will be brief because I think it was an excellent speech from Senator Bailhache and it said a lot of what I wanted to say. I wish I could change the mind of the Constable of St. Lawrence because my child ... when my 2 children got a bike at an age ... well, what I call their big bikes at the age of 10 and 11 with the helmets and I have seen a presentation, I think it might have been Headway, at the Halliwell Theatre when I was on the Health Committee and it was about a young boy in Guernsey. His head was saved but you had to see this helmet, you would not have believed the head had been saved if you had seen this helmet. So when my son then reached 11 and decided he wants to take his bike to Le Rocquier I give him the helmet, he refuses to wear it, so we have the argument, I ask the school: "Can you enforce this?" "Well, he might not use the helmet but if he comes to school we have really got nothing to enforce this." So I sold the bike. So my son and my daughter have never ridden a bike. Because I saw what this did, if I had had this tool in my box as a parent I could maybe have persuaded him. It is very weird because only 6 years later, or probably 5, when he got his first job and he is still there in St. Ouen - I think my fourth favourite Parish now - he got a 50cc pop pop, he has taken the test and he has to wear his crash helmet and he has no argument about that at all. So it is about education. I think if we could educate children up to 14 would you then take your helmet off? Would anyone today not buckle-up or drink and drive, you do not do it. So it is just another tool and I really hope I can persuade them, I am not sure I can. There is just one other point, I do agree with the Constable of St. Mary and Deputy Baudains totally, the speed and the danger some of these bikes can do ... about their free will ... and I have got a free will not to get insured in my car. I think we do need to look more, we need to register bikes because if they are going to knock people over or ... it is not your free will to hurt yourself and then everybody else, the States, has to pick up after you. This is basically what we do have insurance for. But I really do hope that we are not going to make too much out of this and I probably should not have spoken after Senator Bailhache, but I do sit on the Child Accident Prevention Committee and every time I go - and we only sit 4 times a year - they ask me where this legislation is. I emailed Deputy Green and Deputy Lewis and this is where it is 4 years later. So I do hope that it will get passed and it will protect children. The jury is out on whether people will not ride their bike, the jury is not out if you have an accident, you are not wearing a helmet, you bang your head, injury. If you are wearing a helmet, bang your head, very little injury, if no injury.

2.1.16 The Connétable of St. Brelade:

Again, I am going to be brief. Deputy Tadier, I think, was a little bit critical of maybe some of the comments I made to the panel. When I went to the panel I wanted to give them an honest view of how I felt it would be policed or the Honorary Police would deal with this new law. When I said

that it is unlikely this law would be policed consistently, if at all, it may have been taken out of context to some degree. But a lot of the laws that the Honorary Police police on a regular basis are difficult to police but the good thing with the Honorary Police, and I think it is a phrase that is used quite often, is all our officers - or I would hope all our officers, certainly the ones I deal with and have some control over - police in a commonsense way and they police all the way through from giving a piece of advice or encouragement all the way through to, as Senator Bailhache says, the ones that really do not want to listen, through to prosecution. But, as has already been said, a vast majority of children already wear helmets. This would apply to the small minority that we might have to deal with and if eventually it leads to a prosecution then so be it. But the last thing any Constable or Chef de Police or Honorary Police want to do is criminalise young people. It is the last port of call. You can see that from youth crime figures. It is the last port of call. So I think it was taken a little bit out of context. I am just trying to be honest about the cost of Parish Hall prosecutions because they can be very time-consuming and they can be expensive. To not comment on that would have been wrong. But that is not the be-all and end-all of that prosecution, if people need to be prosecuted they will be. Like I say, they are difficult to police but I expect all our Honorary Police to be proactive when they have to be and deal with people on a one-to-one basis. I take my own situation. I am one of the most stubborn people you will ever meet, and I think most people here know that. I used to race cycle quite a bit and I had to wear a helmet because I was told by the club I had to wear it and when I was not racing I would go out and I would not wear it. In the end my wife said to me one day: "You are going to hurt yourself if you do not wear a helmet" and I listened to her for once. **[Laughter]** I do wear it, I am glad I wear it and I encourage people to wear them. That is exactly what I would do if I was policing. I would encourage people to wear helmets, irrespective of their age, whether they were 8, 10, 12, 40, 60 or whatever age, I would encourage them to wear a helmet. My way of looking at this - and it is the same with smoking in cars, but especially with this - if it saves one life or stops one child ending up seriously injured it is worth it. If the Honorary Police can play a part in preventing one child from getting killed, great. That is what it is all about, I think, and that is the way our Honorary Police will look at it. **[Approbation]**

2.1.17 The Deputy of St. Mary:

As a Member of the Scrutiny Panel who looked at this, our recommendation was for this to encompass children from the age of 16 and I cannot understand why the Minister for Transport and Technical Services has reduced that age limit. Sixteen is a far more beneficial age to take into consideration, the whole range of children from 10 to 16. Why that has come at a reduced age, I do not know. On the subject of enforcing and policing it we also recommended that this should be done through education, which is the first line to take on any enforcement. I just wanted to make those points.

2.1.18 Senator P.F.C. Ozouf:

I am only speaking because I was worried that this debate was going wrong, but there has been a number of very good speakers so I will be attempting to do it in less than a minute. Cycling is good for you. We all want to try and encourage more cycling. We want more cycling than less and we want safer cycling rather than more dangerous cycling. There are big debates under way about how to make cycling more a means of transport and that is happening in towns and cities around the world. We should be encouraging cycling, we should be investing in cycling and what this is really about is what other Members have said, this is about giving good habits to young people.

[16:45]

I am not a natural nanny-stater, I am a liberal but we do have prohibitions for young people on buying cigarettes, on drinking, on other things. That is what you do. You guide young people and

you put rules for young people and that is what this is about. This is about prevention and I do not agree with compulsory cycle helmets for adults at the moment, I think that may well come but I do agree with the law that has been brought forward, the Regulations that have been brought forward and I thought we had agreed this in principle. There is a minority lobby against cycle helmets. They are vociferous, they are not always right but on the basis of prevention and safety for children I think we should go with what the Minister is providing and enthusiastically support it and get on with the vote.

2.1.19 Senator P.F. Routier:

I am pleased to follow a couple of the Constables who have explained how they would deal with this in the honorary system and I continue to have faith in the honorary system and I think they will certainly deal with the issues regarding this. I do wonder how the Constable of St. Lawrence's honorary officers deal with, for instance, children or anybody riding their bike without lights. This is a minor matter but it is an offence to ride without lights and I hope they are treated in a lenient way. Deputy Tadier spoke about he hoped it would not be mission creep into perhaps adults needing to wear helmets at a later stage. Well, I probably have a different view to that. I hope it is mission creep and certainly when we look at any sporting organisations, cycling organisations - the Constable of St. Brelade touched upon it - you cannot even touch your bike unless you have a helmet on when you are in a cycling club. They recognise the benefits of wearing helmets. Just finally, the Scrutiny Panel has said on balance they would support this. That is the issue, when people lose balance they will fall off their bikes and they will bang their heads. **[Laughter]**

The Greffier of the States (in the Chair):

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

2.1.20 Deputy K.C. Lewis:

I will be as brief as I can. I thank Deputy Green for his personal experiences, which we are all aware of. Deputy Baudains will be delighted to hear for the first time in a long time I agree with everything he said. It had to happen one day. Things have changed since the old days with bike design where you had a big upright bike of solid steel, now modern bikes are made of carbon fibre and really pick up speed. I thank Deputy Young and his panel for their very valued input. The Deputy of St. Martin I also thank for his comments. Deputy Southern asked about enforcements and why 14? This was negotiated by my predecessor to have a seat belt on in the back of the car, if you are under 14 it is the driver's fault, if you are over 14 I believe it is your fault. It was dovetailing with that as an age. This can be changed by Regulation if it was proven to be too low. The Constable of St. Mary made reference to the parent's responsibility, which I fully endorse, and mentioned bike safety. Bike safety is absolutely critical. I was coming down Mont Millais the other day about 6.30 at night, stopped at the lights, a young man went straight past me on the inside, went through 2 sets of red traffic lights with neither looking left or right. I just held my breath but he got away with it and mounted the pavement on the other side when he got there. Not only do I wish that once passed these Regulations will be enforced, also the cycling on pavement will be enforced. I would also like to see more States police on push bikes enforcing these laws. The Constable of St. Lawrence, I am not sure if she is supporting this. "Why did you bother to bring this" I think was the question? Well, this Assembly requested I do so. So that is why that is here. I will be voting for it. Deputy Tadier also made reference for enforcement, Deputy Duhamel asked about unicycles. As far as I am concerned that is a pedal cycle, even though it only has one wheel. If it is motorised in any way that would be classed the same way as a Segway, which is not type-approved, and cycling on the pavement is already illegal. I thank my Assistant Minister, Deputy Le Fondré for his comments. Senator Bailhache also asked why 14; I think I have covered that. I thank him for his comments. The Constable of St. Martin I know is a former police officer

so has seen the results of these terrible accidents, very wise words indeed. The Constable of St. Peter mentioned legislation in other countries, I thank him for that. The Deputy of Trinity spoke regarding protecting our children. Deputy Martin, absolutely spot on with her comments regarding safety of the young and regarding wearing a helmet; I think Michael Schumacher would agree with this 100 per cent. I know he is not here. The Constable of St. Brelade mentioned the Honorary Police, I will come back to that very shortly but I do support that 100 per cent. The Deputy of St. Mary, yes, it can be changed by Regulation if it is thought that 14 was too low. Senator Ozouf mentioned the health benefits. Senator Routier, I know he has a history obviously with the brain injuries and the honorary system, existing laws and cycle clubs, absolutely spot on. I would like to thank everyone who has spoken, especially Senator Le Marquand who has assisted with this legislation and the Chief of Police, D.V.S. (Department for Vehicle Standards), Law Draftsmen's Department have put in an enormous amount of hours on this and, of course, I thank the Scrutiny Panel for their helpful comments and I agree with the overall sentiment of their paper, however there is one detail I must comment on, which has been touched on already. It would be wrong for the Assembly to vote on this proposition based on the comment that the legislation is unlikely to be strictly enforced. What the Assembly can expect is for the Regulations to be sensibly enforced. I have made provisions within the Regulations so that the new offences can be dealt with by a Parish Hall Inquiry. This is the lighter touch offering, in the majority of cases, workable, proportionate enforcement which provides considerable flexibility, indeed a Centenier can decide not to impose a fine should it appear not to be warranted. It can just be a warning, whatever. I thank all Members for their comments and contributions and I make the regulations.

The Deputy of St. Mary:

Can I have a point of clarification, please? Could the Minister explain why he decided to go with the lower limit rather than 16?

Deputy K.C. Lewis:

As I touched on briefly, this was negotiated by my predecessor with Deputy Green, they thought the lower age. It is my wish and my desire that once young people get into the habit of wearing a cycle helmet for a number of years they will not wish to take them off, like seat belts, they would not take the helmets off later on.

The Bailiff:

Very well, is the appel called for? The matter before the Assembly is the principles ...

The Connétable of St. Lawrence:

Sir, excuse me, may we take Article 3 separately, please?

The Bailiff:

We are still on the principles.

The Connétable of St. Lawrence:

I beg your pardon, Sir.

The Bailiff:

Jumping the gun. So the matter before the Assembly is the principles, the appel has been called for and the Greffier will open the voting.

POUR: 40		CONTRE: 4		ABSTAIN: 1
Senator P.F. Routier		Deputy M. Tadier (B)		Deputy G.P. Southern (H)
Senator P.F.C. Ozouf		Deputy G.C.L. Baudains (C)		
Senator A. Breckon		Deputy J.P.G. Baker (H)		

Senator S.C. Ferguson		Deputy N.B. Le Cornu (H)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

The Bailiff:

Very well. Deputy Young, I do not suppose you wish this matter referred to your Scrutiny Panel as you have already looked at it.

Deputy J.H. Young (Chairman, Environment Scrutiny Panel):

No, Sir, I think we have done it already.

The Bailiff:

Yes, very well. Do wish to propose the Articles together, Minister?

Deputy K.C. Lewis:

Yes, if Members are content.

The Bailiff:

We can vote on them separately if any Member wishes to but you may wish to propose them all together.

2.2 Deputy K.C. Lewis:

I am content if Members wish to vote them *en bloc*.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the individual Articles? Deputy Tadier.

2.2.1 Deputy M. Tadier:

Yes, number 3 is going to be taken separately, if that is all right. Just very quickly because I did not pick it up before, I find it curious at the scale of the fines. The actual basic fine of committing the crime of not wearing a helmet as a child is only level one but then (3) says: "A parent of a child commits an offence and is liable to a higher fine" I believe, if I am reading it correctly. So it seems like you have an initial fine which is lower and then, I think, if you do not comply with the order then you have a higher fine and that seems particularly curious. It should be the other way round I would have thought. But as I said earlier, I am not happy with that Article anyway so that is why I am asking for it to be taken separately.

The Bailiff:

Yes, if I may from the Chair, of course any Article can be taken separately but the only substantive Article or Regulation in these Regulations is Regulation 3. All the others are simply consequential. So if you do not like Regulation 3, vote against the whole lot because if Regulation 3 is voted out there is nothing left. It is a matter for Members but it would be nonsensical to vote out Regulation 3 but vote in Regulations 1, 2, 4 and 5, they would not have any meaning. I would have thought, Connétable and Deputy Tadier, unless you feel very strongly about we take them all together and if you do not like Regulation 3 you vote against the whole lot. I cannot believe anyone is going to vote for Regulation 3 but against the others or vice versa.

Deputy M. Tadier:

Sir, the point is I have nothing against 1, 2, 4 or 5 and would like to support that wholeheartedly.

Deputy K.C. Lewis:

There would be no deterrent.

The Bailiff:

They are meaningless without Regulation 3. Well, it is a matter for Members. Certainly if anyone wishes to take them separately they can. A request has been made so we will take Regulation 3 separately. Does any other Member wish to speak on any of the individual Regulations? Do you wish to reply, Minister?

2.2.2 Deputy K.C. Lewis:

No, I am content to take 3 separately if Members wish but, as you quite rightly say, it will be a complete nonsense because there would be no deterrent whatsoever but I would like to thank everyone who has spoken and contributed to the debate. I make the amendment.

The Bailiff:

It is not that there would be no deterrent, there would be no provision. Very well, shall we take Regulations 1 and 2 first? All those in favour of adopting Regulations 1 and 2, kindly show. Those against. They are adopted. Regulation 3, does anyone ask for the appel? The appel is asked for in

relation to Regulation 3. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 38		CONTRE: 4		ABSTAIN: 1
Senator P.F. Routier		Deputy M. Tadier (B)		Connétable of St. Lawrence
Senator A. Breckon		Deputy G.C.L. Baudains (C)		
Senator S.C. Ferguson		Deputy J.P.G. Baker (H)		
Senator A.J.H. Maclean		Deputy N.B. Le Cornu (H)		
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

The Bailiff:

Very well, all those in favour of adopting Regulations 4 and 5, kindly show. Those against. They are adopted. Do you propose the Regulations in Third Reading, Minister?

Deputy K.C. Lewis:

Yes, Sir.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading ... the appel is asked for in relation to the Regulations in Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 37		CONTRE: 4		ABSTAIN: 1
Senator P.F. Routier		Deputy M. Tadier (B)		Connétable of St. Lawrence
Senator A. Breckon		Deputy G.C.L. Baudains (C)		
Senator S.C. Ferguson		Deputy J.P.G. Baker (H)		
Senator A.J.H. Maclean		Deputy N.B. Le Cornu (H)		
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Connétable of St. Helier				
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Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

Deputy A.K.F. Green:

Sir, it is probably not normal but I would just like to thank everybody who has supported this and particularly thank the Minister for all his hard work in bringing this forward.

3. Maternity leave: rights of employees (P.104/2014)

The Bailiff:

We come next to Projet 104 - Maternity Leave: rights of employees - lodged by Deputy Southern. I will ask the Greffier to read the proposition.

[17:00]

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion (a) to agree that pregnant employees should have the right to 26 weeks of statutory maternity leave without having to work for an employer for a qualification period and that they should be able to return to their previous job following their maternity leave; (b) to agree that the period for which a maternity allowance is payable should be increased from 18 weeks to 26 weeks and (c) to request the Minister for Social Security to bring forward for approval the necessary amendment to legislation to give effect to the proposal.

3.1 Deputy G.P. Southern:

I rise somewhat wearily to my feet to propose what I think is a piece of social legislation that should have been in place 20 years ago and was looked at 20 years ago but never made it to the point of being enacted. The 2 questions that I put before Members are: (1) whether we should have, and I believe we should, the statutory right to maternity leave, how long that period should be and how it should be funded. Now, I have selected the period of 26 weeks, corresponding to 6 months, which I believe is the correct one in order to do the prime thing that maternity leave is about, which is the first bullet point on P.109, safeguarding the health of the pregnant woman during pregnancy and in the weeks leading up to giving birth and improving bonding between mother and child. That 26 weeks, that 6 months, corresponds to the recommended length of time that women should breastfeed in order to give their children the best chance in life, the immunity to childhood diseases and protection and healthy ongoing children. The relationship between the mother and child has also been shown to be strengthened by this period of time of close contact and that in turn has been related to all sorts of beneficial, long-term effects in the behaviours of that particular child. It increases educational attainment; it reduces criminal behaviour in the long term. That 6 months is absolutely essential. I will just go through the Minister's bullet points which suggest that there are many potential benefits of engaging a statutory maternity leave. So, safeguarding the health of the pregnant woman and the health of the baby; ensuring that taking time off work for antenatal work does not have to be a financial choice for the mother; increasing the likelihood of breastfeeding and more time for mothers to breastfeed and establish a feeding routine; improved child development of health increases the likelihood of women returning to the labour market. A proper length of maternity leave paid increases the rate of return among women. It engenders that feeling of loyalty that says: "I want to work for this firm." Staff retention: minimise the risk of losing valuable staff members and loss of skills, reduced turnover and training costs. Remember that training costs apply. If someone leaves a company you have to find a person to replace that person and that costs. If somebody takes maternity leave, and I am suggesting up to 6 months, then you have to train that person. You have to train a substitute for that person for a 6-month contract. The costs that we talk about when small businesses in particular say: "Oh, it is too expensive for us, we cannot afford those costs," apply whether it is a person leaving or a person coming back after 6 months to training and putting in somebody for 6 months. It produces a straightforward system with plenty of notice for the employer that supports business planning. Contact during maternity leave encourages communication and reduces uncertainty and disruption for the employer; improves staff morale and productivity; family-friendly workplaces become more commonplace and it creates a level playing field for employers. I would argue that the right of a woman to return to her job after 8 weeks does not do all of those things, 26 weeks, I believe, does those well. Imagine, if you would, how large an 8-week baby is. Imagine the wrench of having to give that child up to return to work because that is all your statutory 8 weeks will allow. It is not a

very attractive practice, enticing practice, but 26 weeks is a time in which that bond can be established and breastfeeding can take place more easily than in the workplace and the child's future improved. The second thing is that we should, I believe, have some pay element into that period of maternity leave. The Minister in his proposals starts with 2-weeks' pay and says quite clearly: "I believe we must take this first step as soon as possible to give vital protection to parents but with minimal cost to employers." I have not changed the cost to employers one iota. Those 2 weeks paid by the employer is all that is paid by the employer. What I am suggesting here is that maternity leave has a cost and until it is made, in this case by the Minister for Social Security or the Employment Forum, not to burden the employer with that cost then I believe the States must step in. At the moment we have 18 weeks of maternity allowance for most people who qualify for that allowance and that is well and good. I am suggesting that we should extend that to the full 26 weeks, which is the intention of the Minister for Social Security eventually. He too wants to go in the second stage to 26 weeks; he accepts 26 weeks is the target. I am saying we should identify that target and set it now rather than wait to 2 or 3 years down the line when we expand from 18 weeks to 26 weeks. I am suggesting that we extend maternity allowance, which gives some support, £191 a week, to mothers on maternity leave, from 18 weeks to 26 weeks. If Members look at what that does, in terms of the costs, it is slightly over £1 million a year that that costs. I was looking further into what the Social Security Fund is doing at the moment and how it is doing because the Minister says: "Oh, we cannot possibly do that £1 million extra on to the Social Security bill." However, 2012 expenditure on benefits from the Social Security Fund totalled £191 million, income from contributions from the States grant totalled £290 million. Contributions are £28 million, more contributions than we are paying out. The Minister says: "Ah, yes, but we are going to have to examine the Social Security Fund and examine ways for an amount by which we have to raise contributions because the actuary said that we are coming at the moment to the balance point and we need to examine it." That balance point can be examined and figures can be produced. This is what we need to do with the Social Security Fund, but if we add that £1 million, £1.2 million, £1.3 million to the Social Security bill that in and of itself does not cause any problems before we examine and look at 2016. In 2015 or 2016 what are we going to do with the Social Security contributions? Although there is an argument about whether we should do that, that extra £1 million, I do not believe is critical to the viability of the Social Security Fund, which needs to be looked at anyway and is due to be looked at anyway, so we do not spoil anything there. The key element to paying for maternity leave is that if we do that at the right level then what we do is we encourage mothers to take their full statutory right. I have been unable to find, particularly, figures of when people do return to work, what is the average, it is very difficult to find but, nonetheless, certainly there is evidence, I think, that lots of mothers return before their statutory maximum. I think that is about not being paid enough to make it worthwhile. The report of the Minister makes mention of the duration of maternity leave and says: "The duration of maternity leave is obviously a key issue. There is some evidence that while longer periods of maternity leave have a positive effect on the take up of maternity rights, more time out of the labour market potentially has a negative effect on women's longer-term career prospects and earnings and the likelihood of her returning to work." I have looked at that evidence and it refers to periods which are in fact much longer than 6 months, much longer than 18 weeks, or whatever. If Members will look at the back of my report on pages 10 and 11 they will see that the number of months of well-paid leave and the number of months of paid leave in general, by and large is much larger than 6 months. Six months still represents a relatively small period of time off work and those caveats do not apply under 6 months, I do not believe. Finally, I would just like to compare briefly with what happens in the U.K. because obviously a lot of our employers are U.K.-type employers and already have much more generous maternity leave, in many cases, than what is suggested is the statutory minimum. In the U.K. pregnant employees have the right to 52 weeks - so twice the length I am proposing - 39 weeks of which is paid either by the employer or by contractual maternity pay or maternity

allowance and the key thing is that the employee has the right to return to the original job or negotiate a suitable alternative. The fact is that there is a cost in the U.K. because in the U.K. the employer is responsible for administering maternity leave. In this case I am saying that if we increase maternity allowance then that operates on its own, there is no cost to administer maternity leave to the employer in this case. I would just like to finish with a little quote from Fiona Vacher, who is the Chief Executive of Jersey Childcare Trust, which says: “A lack of time with a newborn can lead to postnatal depression. To have a baby is a massive trauma on your physical and emotional wellbeing as a mother, also for the child’s wellbeing to get to know and bond with its mother. It is absolutely fundamental. The social problems that this can cause and the fact that children are not bonding with their parents because of not having had that time, is going to cost society. The greater the period of leave, the more chance a mother has to develop a sustainable, lasting attachment to their child. This attachment has a long-term protective factor.”

[17:15]

The fact we have the highest rate of working women in the world in Jersey, not to have a maternity law where mothers have a basic right to be with their child for the first few weeks and months is not good. I refer briefly to what the I.L.O. (International Labour Organisation) and the European Union have to say on maternity leave, and this is where I think the Minister’s proposals fall down. The I.L.O. Maternity Protection Convention of 2000, which came into force in 2002, recommends that the woman: “Shall be entitled to a period of leave of not less than 14 weeks. Cash benefits should be at a level which ensures the woman can maintain herself and her child in a proper position of health with a suitable standard of living.” But that key is: “Shall be entitled to a period of maternity leave which is not less than 14 weeks.” The proposals of the Minister are that the entitlement is up to 8 weeks with a limited employment, by 15 months a limited right to any more. It is less than the I.L.O. guidance. To get to 18 weeks there is a condition placed on it. It is not an entitlement; you have to have worked for the employer for 15 months. It is limiting what is an entitlement. My proposal meets that entitlement; I do not think the Minister’s does. How long? Twenty-six weeks, absolutely essential, I believe. That is the critical period for the health of the baby, the health of the child. Funding through the Social Security Fund which, despite the reservations expressed by the Minister, can afford that and will be looked at before 2016 to decide how we deal with it. We are talking about an extra £1.3 million, let us say, or, let us be generous, £1.5 million tops, on a bill of a £191 million which is paid out. It is a relatively minor additional; bill on Social Security. I believe we can afford it. I believe we cannot afford to do less because I believe 8 weeks as the statutory minimum is really not adequate. I do not think a woman wants to go back to work after 8 weeks and if they do then it does have an effect on that relationship, on that bonding between mother and child, so you run that risk.

The Bailiff:

Is the proposition seconded? **[Seconded]** Senator Le Gresley.

3.1.1 Senator F. du H. Le Gresley:

Members may have been confused during Deputy Southern’s speech because he referred at great length to P.109 and, just to be clear, we are not debating P.109 but debating P.104. I would remind Members that I did ask Deputy Southern when he lodged P.104 why he chose to lodge that the day before I lodged my full family-friendly rights proposals. Sir, you were sitting in that chair at the time and I have the Hansard of that exchange. I did ask Deputy Southern why he did not choose to bring an amendment to my law which would clearly have been the right place to discuss whether maternity leave should 6 months or 18 weeks, as I am proposing. He made a very strange comment to say, and I quote: “It was a conscious decision to lodge early because I knew what was coming.” I am puzzled by that because he knew what was coming, he has chosen to quote profusely from my

P.109 report and yet, hopefully, if we get past this debate, we will be debating my proposition. I really am confused why Deputy Southern has chosen to deal with this in this way because the obvious way was to bring an amendment to the main law. However, he has made a number of points. In practice I think it is true to say that the target is to get to 26 weeks but - and I am afraid I have to stray into my proposition which may be debated tomorrow - we have to take the employers with us; we cannot rush into these things. The consultation that was carried out by the Employment Forum was with employer groups, with unions, with anybody who wanted to respond to consultation. They came forward with some very measured proposals, all of which in stage 1 I am proposing to introduce, together with one item out of stage 2 which is the right to request flexible working. Very measured proposals thought through. As Deputy Southern quite rightly said, we should have done this years ago. We should have done it years ago but the reality is it has not taken place. I am absolutely determined that we will bring in protection for women in particular, but also for the right for the father to have some leave when the baby is born and if they adopt a baby they should also have rights. All these rights should be in place in our legislation but we have to take it slowly. We cannot go from zero to 6 months in one go. We will not take the employers with us. I am not speaking for employers because I challenged the Chamber of Commerce as to why they cannot support what I am doing. They feel it is not the right time in the economy and they feel there should be small business exemptions. I understand those things but these are very basic rights, rights to protect the mother, rights to protect the child. I do think that my measured proposals are ones that this House should be debating and not this proposition. Of course Deputy Southern has the right to bring that proposition but I do feel that we are having a debate tonight when we should really be starting on my proposition. He has made suggestions that the way forward is to have 26 weeks for everybody, all women, with no requirement to have served any qualifying period. I just think that that is not going to be acceptable in this stage of developing family-friendly rights. It sounds good on paper, it sounds good to say it, but the reality is that Jersey is not ready for that sort of change. The Jersey Annual Social Survey is a good measure of what the public think about childcare. In 2013 there was a question asked of all parents with children under 16. They were asked what would make working easier for them or encourage them to return to work and the thing that found the most favour was flexible working, which is in my proposition, and cheaper childcare. We do provide help for childcare and we probably could provide more. But longer periods of maternity or paternity leave, only 2 per cent. Only 2 per cent of the people who took part in that survey in 2013 thought that longer periods of maternity or paternity leave would make a difference. That is not something new because the same question was asked in the Jersey Annual Social Survey of 2007, this time to parents looking after children and not working: 60 per cent said flexible working; longer unpaid leave, 10 per cent. Clearly for women who want to get back into the workplace, flexible working is the thing that they really want. They want to be able to spend time with their newborn child but also get back into the workplace as soon as possible. Flexible working is the way forward. When we talk about cost Deputy Southern started with £1 million and he ended his summing up well it could be £1.3 million or even £1.5 million. This is the problem; we cannot just jump around with figures when it comes to taking money out the Social Security Fund. We estimate that it will be £1.5 million if we were to extend maternity allowance for 26 weeks. Interestingly, our sister island Guernsey is struggling with this problem as well. They want to bring in statutory maternity leave but their proposal is, strangely enough, for 26 weeks but they cannot afford it. They have tried to see if they could stretch their finances - and it is the same figure, £1.5 million - and they came to the conclusion they cannot afford it. My understanding of the latest information I have is they are going to go back to 18 weeks, the same as us, because that is the same period as the maternity allowance they pay. Guernsey and Jersey, you know from my report, are the 2 places almost in the world who do not have statutory maternity leave. Unbelievable, but that is the situation. If you vote for my proposition tomorrow we will be ahead of Guernsey because at least we will have approved some

legislation. I really do not know what to say because we are just jumping the gun here. We have not consulted on 6 months. We need to go out for consultation again if that is the way forward. If Members want to go with Deputy Southern's proposition I cannot debate mine tomorrow because the House will have given me a new instruction and, therefore, I will not be able to debate that. We will delay the essential rights that have been sought for over nearly 5 years now since that consultation took place. They are over 22 years overdue from the original code of practice back in 1992, I think it was. We are so far behind. This is just another unnecessary delay because it could have been dealt with in an amendment. I urge Members to reject this proposition, however well-meaning it might be, and let us debate my main proposition tomorrow.

3.1.2 Deputy M. Tadier:

I will try to keep it within half an hour ... joking. This is a very modest proposition and the Minister will know that. I came and spoke to him about what the long-term plan was with a view to an amendment of my own and it was not possible to do it within the timeframe. My position is basically this: we should be giving women 26 weeks paid leave and what we need to be getting to is to give them full pay or at least 90 per cent of pay for a period of 26 weeks so that the employer does not have to pay for it. It is not right that an employer, especially small ones, should have to fund that bill. It is a social benefit and a social provision and that is what you do in civilised societies. Nobody asks to be born female and nobody asks to be the gender which has to, therefore, give birth to children, sometimes more than one. It is not comprehensible for me but, of course, that is how the world works and that is why it is imperative that we as a society have the correct legislation in place that looks after women's rights. That is where I want to get to. Deputy Southern's proposition is very modest in comparison. What the Deputy is asking for is 26 weeks of statutory maternity leave. I understand that that may be controversial for some and that might be moving too fast but that is a basic right which I think needs to be brought in. If it is an issue of cost and an issue of who pays then it is absolutely right to say to the Minister for Social Security: "Go away and find a way to pay for that." But part (b) is far less controversial; it is simply saying that to increase maternity allowance from 18 weeks to 26 weeks. I cannot imagine that a new mother and a new father, come to that, anyone would begrudge them and saying that you should be spending as much time with your new child in the first 6 months of their life as possible. Let me just read some comments on the importance of bonding. We all talk in Assembly, do we not, about how it is important to look after children, how early investment is key and that you are far better off targeting resources at the younger end rather than at the older end. We know that makes sense yet we do not always follow that logic. Just to quote from a newspaper, it is written by a Conservative M.P. (Member of Parliament) as it happens, but I do not mind quoting them from time to time, it is Andrea Leadsom, Conservative M.P. for South Northamptonshire, if you excuse the slightly bizarre sounding constituency she comes from. It says: "The greatest health challenge of our time is securing good mental health for our nation. To achieve good mental health we should look no further than where it begins at the conception of a baby. Securing early bonding is the difference between the baby that grows up a secure, emotionally capable adult and a baby that will become a depressive anxious child who will not cope with life's ups and downs. In the most difficult cases the baby is more likely to later experience criminality, substance abuse or depressive problems."

[17:30]

Where are the costings in the Minister's proposition for those consequences? The Minister, like a Back-Bencher, has to provide costings for the consequences of his proposition. There are no costings in there about the future cost of dealing with criminality, of depressive children, anxious children, criminals when they grow up in dysfunctional families. That is not featured in the Minister's proposition because, of course, he cannot calculate that. But there is a cost, let us not underestimate that, there is a very tangible cost. Anything that can be done early on in life, and we

are talking about £1.5 million, is nothing in comparison to those figures that we are talking about. I have contacted the Social Security Department in the past about what the effect would be of lifting the Social Security cap to remove the upper cap of the £152,000, or thereabouts. In doing so I have been told that it would raise an extra £3.37 million a year. What we are saying is by introducing not even a progressive taxation rate but by introducing a proportional taxation rate, because that is what Social Security is, it is a tax for those who have to pay it. Of course, it is not a progressive tax for those with higher incomes. If we introduced basically proportional taxation, or some other similar system, we could pay for this scheme twice over, the one that Deputy Southern is proposing, and we could make sure that we look after young mothers at this stage. I am glad that this proposition has been put ahead of the Minister for Social Security. We can send a strong message to women and to young families in this society that we do care about them, that we do need to look for sustainable effective mechanisms for looking after them which will save money in the long term. That is the challenge, I think, that Deputy Southern has quite commendably put before the Assembly today. I will stop there, I think it was 5 minutes and it is probably opportune for somebody to ask for the adjournment.

Deputy R.G. Le Hérisier:

Could we have the adjournment, please?

The Bailiff:

The adjournment is proposed so the Assembly will reconvene to continue this debate at 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:32]