

# STATES OF JERSEY

## OFFICIAL REPORT

**WEDNESDAY, 4th NOVEMBER 2009**

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

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

I missed the opportunity earlier, but I believe Senator Syvret is out of the Island seeking asylum in the U.K. (United Kingdom). [Laughter] [Approbation]

**Senator T.J. Le Main:**

I suppose he is going to be asked to be défaut excusé. [Laughter]

**Deputy M. Tadier:**

I believe Senator Le Main has already asked for défaut excusé, so I will be happy to second that.

**Senator T.J. Le Main:**

I certainly have not; I can assure you. [Laughter]

**The Deputy Bailiff:**

Members, is that a proposition?

**Deputy M. Tadier:**

It is, Sir.

**The Deputy Bailiff:**

It is a matter for Members. Is it the wish of Members that Senator Syvret be ...

**Senator J.L. Perchard:**

The appel.

**The Deputy Bailiff:**

The appel is called for. The proposition is to excuse Senator Syvret.

<b>POUR: 0</b>		<b>CONTRE: 43</b>		<b>ABSTAIN: 0</b>
		Senator T.A. Le Sueur		
		Senator P.F. Routier		
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		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy of St. Martin		
		Deputy R.G. Le Hérisier (S)		
		Deputy J.B. Fox (H)		
		Deputy J.A. Martin (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy P.V.F. Le Claire (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy M. Tadier (B)		
		Deputy A.E. Jeune (B)		
		Deputy of St. Mary		
		Deputy E.J. Noel (L)		

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

**Senator B.E. Shenton:**

I do not consider this a laughing matter. I think Senator Syvret's actions are discourteous, both to this House [**Approbation**] and to the electorate of this Island. I would ask the Privileges and Procedures Committee to look at the behaviour of the Senator, which I find totally unacceptable. [**Approbation**]

**Deputy M. Tadier:**

Can I just add in response to that, it was not I who was laughing, I believe, when I stood up with the fairly serious proposition; it was other Members who laughed. I think it is necessary to air this matter.

**The Deputy Bailiff:**

Thank you to Members. This is a matter not for today; it is a matter for the Chairman of the Privileges and Procedures Committee, if she wishes to take up that invitation. We now resume debate.

**Connétable J. Gallichan of St. Mary:**

I am sorry to interrupt you, Sir; I would just like to say, in my capacity as Chairman for the Privileges and Procedures Committee, and of course speaking personally as well, that I would like to welcome you, on the occasion of your first sitting in your new capacity as Deputy Bailiff, and of course today as President of the Assembly. [**Approbation**] I hope that you will find the perspective from your new seat agreeable [**Laughter**] and, in fact, even enjoyable on occasion.

**The Deputy Bailiff:**

Chairman, thank you very much for those comments. At the moment it is absolutely terrifying [**Laughter**] but I hope to inch my way towards the comfort zone. The debate will resume on ...

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

Sir, I have to remind you also to look at this side of the Chamber. [**Laughter**] Yesterday morning I asked the Chief Minister if he would circulate the names or the details of the review panel to review the consultant gynaecologist at the hospital; I understood it was going to be circulated yesterday. Could I ask that if it is not circulated early this morning we maybe have it by the end of the day?

**Senator T.A. Le Sueur:**

I would certainly hope so and I instructed my office yesterday morning to give the fuller details requested by the Deputy. As soon as those are completed they will be circulated. I apologise that they have not been circulated already.

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

I will be going at lunch time today to license the new Prison Chaplain and Second Hospital Chaplain in a service at the hospital, both of which institutions are the responsibilities of this House and I wonder if I might take the greetings of the House to the Reverend Sally White, the new Prison Chaplain? [**Approbation**]

**The Deputy Bailiff:**

It is quite clear, Mr. Dean, you may do so.

**PUBLIC BUSINESS – resumption**

**1. Draft Shops (Regulation of Opening and Deliveries) (Jersey) Law 200- (P.111/2009):  
second amendment**

**The Deputy Bailiff:**

We will now resume debate on Article 4 of the Draft Shops (Regulation of Opening and Deliveries) (Jersey) Law 200- and there is an amendment in the name of Deputy Gorst. Is the amendment seconded? **[Seconded]**

**The Greffier of the States:**

Article 4(a): in paragraph (1) omit the words “Christmas Day”; (b) after paragraph (2) insert the following paragraph and renumber the remaining paragraphs accordingly - “(3) Regulations made under paragraph (1) may not include provision empowering the Minister, by Order, to designate Good Friday or Liberation Day as a special occasion for the purposes of this Law.”

**The Deputy Bailiff:**

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

**1.1 Deputy I.J. Gorst of St. Clement:**

This is, in effect, 2 small amendments. If I try to clarify to Members the effect of the amendment, should they be approved. The first amendment is one which would in effect disallow shops to open on Christmas Day, apart from shops which are covered by the exempt transactions. I would have hoped to have been in a position to explain to Members exactly what that will mean; however, we heard the Assistant Minister yesterday say that perhaps he had in his mind to bring forward some changes to those shops which were able to offer exempt transactions, perhaps limiting the operations of post offices. So I cannot, with any certainty, say exactly what those exempt transaction shops will be, but I suspect that what will remain, or there will remain to be, an exemption for pharmacies, and probably along the lines, as we heard yesterday, with regard to the airport and the harbour because of the special operating conditions that they find themselves under. If Members approve the first part of my amendment, what that will mean is that they are the only shops which will be granted a permit to open on Christmas Day. The aim of both of my amendments is to protect and preserve the nature of 3 specific days. The first amendment’s aim is to protect the character of Christmas Day. The second amendment is to go some way to protecting the character of Good Friday, and what I hope has become known as our National Day, that being Liberation Day. It is a fairly straightforward amendment. I suspect that Members will either agree or disagree with me; however, I cannot pass off the opportunity to make some comment on the comments from the Economic Development Department. While the Economic Development Department are not accepting my first amendment, I find it difficult to understand on what grounds it is that they are opposing it when they themselves report in their comments with regard to anecdote. They, on the one hand, say that there is not much demand, or there is very little demand; on the other hand, they say that people ought to have the right and ability to purchase necessities. What they do not go on to say is for how long they should have that right and ability. If you accept the argument that people, or individuals, ought to be able to go and buy forgotten necessities on Christmas morning, why should that stop at lunch time and not even flow through until the afternoon? After all, we know that different members of our society celebrate Christmas Day at different points during the day. Therefore, if I have forgotten my gravy browning in the morning, that might be suitable for somebody who is eating lunch at lunch time, but not perhaps for someone who has their Christmas dinner in the evening. Why is that important? Well, it is important because, as we discussed yesterday, there are a lot of workers within our community who work shift work, who serve the Island and its community on Christmas Day, and therefore they do

celebrate their main Christmas festivities at different parts throughout the day. One of the rationales that Economic Development are putting forward for not supporting this amendment is that people, as I have said, ought to be able to buy some necessities on Christmas morning. Yesterday, they put forward the rationale in opposition to Deputy Green's amendment that Islanders ought to be able to start sale shopping on Boxing Day, 26th December. So, in actual fact, the only rationale that I can see coming from the Economic Development Department, I am afraid that I have to say, is that shops should be open throughout the year and they are proposing that by opposing my amendment. We heard from the Chamber of Commerce that, of course, we should allow shops to open because people might have forgotten something as simple as their gravy browning. It is not for me to give cookery lessons in the Assembly, but I am sure that I am not the only individual when preparing a roast dinner that can cope without gravy browning; one uses the juice from the pan **[Laughter]** and perhaps adds some cornflour or even stock or even a stock cube. I am sure that members of the community are much more able to think on their feet than I am in that respect. Another point that I think I want to make in that regard is that not many years ago this Island was used to relying on and supporting each other in a neighbourly fashion. If individuals were falling short of something they asked their neighbour, or they asked another member of their family and they supplied and helped in time of need. I am not sure this acceptance of the need to have a convenience store open on Christmas morning, how we have got to that situation, rather than asking perhaps a family member who might be coming for dinner, or a neighbour, who I am sure would be only too willing to help in time of need. We heard yesterday that if individuals fall outside of those 2 categories they can always of course phone Deputy Fox, who will be only more than happy to supply them with a pint of milk. This amendment, I believe, will help protect the character of Christmas Day. As I have said, I suspect that Members will already have made up their mind; they will either think that is a backwards step, or it is a positive step to help protect at least one day. In effect, this will be the only day in the year afforded these extra protections. The Connétable of Trinity yesterday, in commenting upon Deputy Green's amendment, said that he, in common with all farmers, had to milk the cows on Christmas Day and some jobs must be undertaken. I am fully aware of that, being a farm boy. I, in earlier days, had ... late on a Christmas afternoon I was expected to go out and do my chores, be that feeding the calves or other activities around the farm. I am sure, however, in common with the Connétable of Trinity, I would rather not have had to do that and I would rather have been able to stay in front of the fire, enjoying my presents and eating more food. So, I am not sure that that is an argument for not protecting Christmas Day. As I have said earlier, I have experienced individuals who have had to work on Christmas Day, not that they have chosen, but they have joined a profession where it was expected, in the caring profession, and I well remember a number of occasions of having to put my Christmas Day on hold until those individuals were able to return home, sometimes very late at night, and then we celebrated Christmas into the evening. So, I do not believe that those examples of individuals who have to work on Christmas Day should be a rationale for us not protecting the day in relation to shops being open. If I briefly then move on to part (b), this quite simply would, if it is approved, disallow the Minister from making an order to declare a special occasion, thereby allowing the granting of a permit to ... a blanket permit to allow all shops to open. If Members accept this, those days will still be able to be treated as Sunday trading days. We will still be able to get our paper and the other shops that we come to decide to allow to open ... when we see the Regulations, they will still be able to open in that manner. As I have said, I hope that this will not be a long debate. I suspect that most Members have already made up their mind on these 2 particular amendments. I will be asking for them to be taken separately so that we can vote on (a) and (b). I maintain the amendments. Thank you.

**The Deputy Bailiff:**

The amendment is proposed. The Deputy of Trinity, you still wish to second it, having heard the Deputy? **[Seconded]**

### **1.1.1 Senator A. Breckon:**

Just a couple of points. I should declare an interest; in the 1980s I probably worked ... I was on duty for 7 out of 10 Christmas Days and I can say it was no fun. Sometimes if you do get a call - I was at the gas company at the time - you do not see anybody else, you do not even see a dog, so there are not people around. What has come in most recently is some shops - convenience stores - have started to open on Christmas Day between 10.00 a.m. and 2.00 p.m. mainly, and I mentioned this yesterday. For those staff, many of them do not even have any transport, so they have to get there somehow. They either get picked up, and periodically I have seen people who have been working who are waiting outside at about 2.30 p.m. in the rain, having done the opening, and there were a few people using the shop who forgot the apple sauce or whatever it is. But I think if we look at the transcripts, anybody that has run out of something could probably go to Deputy Gorst. If they cannot eat there, he can give them a recipe for something or other or phone him up or get him on his BlackBerry, or whatever it may be, assuming he has still got one. But the thing is, I think this is a good marker because what it does, it says: "Hang on, that is enough. That is enough." It is a very special day and I hope the House will treat it in that respect because the commercial element is necessary, but with the frenzy leading up to Christmas it has perhaps got too commercialised and it is just a way of saying: "Well, hang on, we do know the shops are going to be closed." Most people now have a fridge and storage and whatever else. Nobody will go without. I think it is an apt measure to take and I do not think it is extreme because other measures... for example, pharmacists are covered under another law. They have to open, somebody has to if requested, and we all understand why that could be. Also, the Licensing Law is a separate law and perhaps other laws are silent on this, but I think, in this case, reviewing this law, it is something I think that we need to reinforce and we need to do it now. That is why I welcome this amendment and I will be supporting it. Thank you.

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

It comes as no surprise that I will be supporting this amendment and much of what I was going to say has been said by Senator Breckon. Christmas Day is a special day; a special day when we celebrate the birth of Christ and a special day for families and I think it should remain so. We have seen creeping commercialisation over the years. I can remember as a child here when you would not have found a shop open on Christmas Day anywhere in the Island, other than the duty pharmacist who would be open for a couple of hours. I think it is right that we maintain that wherever possible. Just out of interest, the Constable of Trinity asked me to find a cow that does not need milking. Well, I found him one; it is called a cash cow [**Laughter**] and we do not need to milk it on Christmas Day. Thank you very much.

### **1.1.3 Deputy J.B. Fox of St. Helier:**

I shall be supporting this amendment and there are 2 basic reasons why. At the time when I was a grocery manager, from the week running up to Christmas, every year we used to do a month's business in that few days before Christmas because people were stocking-up, they knew there was a holiday period coming up and, whatever their circumstances, everybody came in and bought extra. I find that people prepare themselves for a special occasion. Going a few years later, when I was a policeman walking the street, like many others that have to work on bank holidays, Christmas Day, Boxing Day, *et cetera*, I never was alone. I would like just to take a moment to recall the generosity of the residents of the Victoria Club who used to make sure that I had some Christmas cheer while walking the beat at the top end of town, but they also had a lookout to make sure that my sergeant was not going to be interrupted. I found out years later, in fact, that what they did not want to do was for both of us to clash at the same time. So, I used to leave by one door as he came in by the other door. There are occasions, of course, when things do happen and do get very serious and one occasion, on police motorcycles, I ended up by having to do 15 hours' duty because of the amount of serious accidents there were on a day like there was last night and people in the Casualty Department and the Police Service and the Fire Service, *et cetera*, were run off their feet.



But I would still remind people that even in the Casualty Department, food always manages to arrive to make sure you were sustained during the long periods that you were there. So, I have got no doubt that this should be incorporated into the main law and would support it. Thank you.

#### **1.1.4 Connétable L. Norman of St. Clement:**

This amendment is not really about trading hours and it is not about introducing or even extending trading on Christmas. It is more, I think, about lifestyle. I think what we should be asking ourselves is is it right, is it appropriate, that we should impose our own individual standards and convictions in legislation, or should we accept, perhaps, that other people have different attitudes, different needs, and even different lifestyles and, perhaps, even that some people do not have the family which most of us can gather around us for the support that Deputy Gorst was describing. So long as the needs of these others with different lifestyles do not impose unreasonably on our own, should we not be tolerant of their needs, requirements, and not force or impose upon them our own convictions and standards? I said this is not about introducing or extending trading on Christmas Day. As we know, as I explained yesterday, every shop that has a Sunday trading permit currently can open on Christmas Day for 24 hours: they do not. What happens is that a number of convenience stores - whether we will still be able to call them this if this amendment is carried - open for a few hours on Christmas Day morning for those people who are not as well organised as Deputy Gorst, and maybe the rest of us, who might need to get some essentials: milk, eggs, chocolates - if you have been out late on Christmas Eve, perhaps - the occasional turkey, maybe. But seriously, it is not a commercial operation. People do not make money. They are providing a service in the local community for the people who live in their particular locality. What we have got to ask ourselves is should we deny that service to those who need it and take advantage of it? As I say, it is a service; it is not a commercial enterprise. It probably costs most of the shopkeepers money to open for those few hours. Now, one of the beauties of the new law, and the Regulations we are able to make under it... it is flexible. If we are content with what happens now, it is quite simple to introduce the Regulation when we come back later that Christmas Day will be restricted to stores of a minimum size and for the number of hours; we can do that. But I think to impose in legislation our own standards, our own convictions, our own lifestyles, if you like, to deny other people the opportunity of meeting their needs, I think is wrong. Thank you.

#### **1.1.5 Deputy J.A. Martin of St. Helier:**

I thought this one was quite easy last night. I did read it and think: "I think this is a step too far" and listening to the Constable of St. Clement - or the Assistant Minister - is Christmas Day a special occasion? If you read the law and then you read the amendment it says: "To give the Minister automatic powers to declare a special occasion, which will let shops open on a special occasion." To me, Christmas Day, Good Friday and Liberation Day are already special days; that is why shops remain closed. I do not understand why ... to me, this is going a step ... and it is all a matter of conscience, but Good Friday, Christmas Day and Liberation Day are the most religious days of the year. Now, that could possibly be where the amendment is coming from. I do not have a problem with that, but I do have a problem with it if it is disguised as something else, and that is why I feel like it is. As I say, we do not open ... there are very, very few ... last year I forgot to get fresh brussels sprouts and my dad loves his fresh ... and I tried. I went around for about 2 hours trying, beg, borrow or sell anywhere, and a friend came to my rescue in the end. I had frozen brussels sprouts, but they were not good enough. It was overcome, but at the same time there was nowhere where I could buy them. I mean, it was not a matter of running out of gravy browning. Good Friday, which we ... are we discussing all the amendments? Okay, I will keep that one. I really do feel the same. Christmas Day is a special day. I feel the same as the Constable; to decide now that there is no give on this day is a step too far and a step backwards. I supported the 26th as Boxing Day because I think that was ... again, I mean, the Constable kept saying yesterday: "Only when Boxing Day falls on the 26th is it relevant." Well, Boxing Day only ever falls on the 26th as far as I am concerned. Christmas Day, again, is always the 25th and we have gone beyond Scrooge

and the majority of people who can be off are off. Unless when the proposer of the amendment is summing up, at this moment in time I really think it is a step too far and I do not think I will be able to support it. Thank you.

**The Deputy Bailiff:**

Deputy, if I may say so, we are having one debate. Although the vote is going to be taken separately on parts (a) and (b) it is one debate, so if you wish to say anything about part (b) and Good Friday then now is the time to do it, or you will have lost your opportunity.

**Deputy J.A. Martin:**

Yes, I will just quickly because there was a remark from the Deputy of St. John yesterday about Good Friday. We all know Liberation Day and there was a big kerfuffle last year; it fell on a Saturday and the shops could open and most did not and it stayed a very special day and it is a very special day to Jersey people and people who know the history. Good Friday, the Deputy of St. John said yesterday he remembers when you could only go to one cinema and see a religious film and it would be free. This is exactly the same today because my children were absolutely ... had nothing to do last Good Friday and it was raining and I said: "I will take you down to the Waterfront Cinema" and it was closed. It was quite a surprise to me, but it was closed. Now, is that a step too far? I mean, it is a holiday. Again, it is a very, very religious holiday, I respect that, but to stop my children going to the cinema on their day off of school I think is a step too far. It is a matter of judgment. So, as I say, Good Friday is in everybody's view the second Christmas Day. On the Thursday, everything shuts at 11.30 p.m. There is no extending of pub times. I can live with that. People must be off licensed premises by 12.00 a.m. on the Thursday because it runs into Good Friday. Again, obviously Good Friday runs into the next day, which they can open. People live with that. It is the only place I know that still does it, but I do not have a problem with that; it is covered by different laws. So, as I say, I think these are very, very religious days. It depends on what way you want to look at them. I respect other people's views, but I will not have them rammed down my throat. So, I am sorry, as I say, definitely, if we are voting separately, I will not be supporting Good Friday and then Liberation Day either. Thank you.

**The Deputy Bailiff:**

The Connétable of St. Saviour, I saw your light come on, but it may have been involuntarily earlier. If you wish to speak please do so.

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

No, Sir, it was just my neighbour's.

**1.1.6 Connétable K.P. Vibert of St. Ouen:**

My good friend, the Connétable of St. Clement, said that this might be imposing our own lifestyle on other people and I was minded to remember a speech which I had seen some time ago from the former Prime Minister of Australia who was addressing a similar issue about making a decision in the Parliament which would affect some people in a different way to others. I think he pointed out that there are 2 sides to the coin. Yes, we are imposing a lifestyle, or the decision we are making is going to impose a lifestyle, but at the end of the day we are a Christian country and these are Christian festivals - other than Liberation Day - and I think that we should be trying to preserve them. If it means that other people do not share our beliefs, do not share our views, that is fine; they have every right to have their own views and their own beliefs. At the end of the day, as that speech clearly said, this is a Christian country, we need to preserve our Christian principles, and I will support this.

**1.1.7 Deputy M. Tadier:**

These kinds of debates make for strange bedfellows as we saw yesterday with the Boxing Day debate. It seems that the centre-left - those who want to protect the workers' rights - unite with the

religious element in the Assembly and it is only the hardcore capitalists who want to worship the golden calf, both on Christmas Day, Boxing Day and at Easter, who are left in the minority. There is this interesting idea about imposing our lifestyle on others. In one sense, yes, that is quite true. In the sense that I benefit from having Christmas Day off, Boxing Day off, Good Friday I will not work. I mean, we can all choose to do a few emails on Good Friday, but I think a lot of us generally will take those days off and say: "These are the few days off. We are going to draw a line and we are not going to work on those days." Yes, I do want to impose that kind of lifestyle on other workers. I want to be able to say to workers: "You should be entitled to this day off as well." We have heard in the past that obviously the nature of the world we live in... there are going to be essential services that we need to be 24/7/365 or 366, depending on the year. Certainly, those are jobs that I have done in the past, having to man telephone lines for emergency services, just in case anyone would call; and they did, of course, call on those days. But these people are generally in a minority, but they are also protected often by unions, by legislation, they have contracts that entitle them to time in lieu, which entitle them to double or often triple-time. The workers we are talking about in the retail industry are often not. Effectively, I believe what the Constable of St. Clement is saying is that workers should have the right to choose to be obliged to work on bank holidays if they want to. This is what we are talking about. We heard yesterday that in reality we say it is freedom of choice but we know that people who want those jobs are people who need to work in those kind of jobs for whatever reason - maybe it is to do with the fact they have not been here for 5 years and cannot get other work, or the fact that there just simply is no other work around - will be obliged to work on those days. I think we have already agreed in principle about giving people time off; this was the whole Boxing Day debate we had yesterday. I am surprised that Deputy Martin does not see this as ... for me, while I am a liberal and I want to see flexibility in society, I really think that it is about people having to work on these days, whether they have families, whether they are religious, or whether they are single or not and I think this is the important part. I think that is really there all is ... that is more or less all I have to say, apart from the fact that we should not get bogged down with whether these are religious holidays or not. Holidays have different meanings for different people. Some people may see Christmas as a religious holiday, they may see Good Friday and Easter Monday as a religious holiday. Even more people who live in secular society see them as times when they can spend time with their family. But everybody should, I believe, see these as times when we can take out time to reflect, time to spend moments with our families, with our friends, or even sometimes on our own just to get a complete break and to reflect on things that are important to us. So I think that really we should support the principle of this. I think enough is enough. There are certain days in the year which everybody should be entitled to have off, where we stop making money. People can make purchases before. If you run out of sugar on Christmas Day or Boxing Day, well just go around and see your neighbour; that is what used to happen in the past, I believe. We need a return to the old values in that sense to restore community. I heard quite a nice anecdote yesterday about somebody who did approach a Senator in here - he is quite a long-serving Senator - and this person had run out of sugar and she just went around and I think she did not borrow sugar, but she borrowed £20 to go and buy some sugar. **[Laughter]** I should have probably adapted that anecdote, but equally, if the shops are shut, you just pop around and see your neighbour who you may not have even met before, say: "Can I borrow some sugar, some coffee, or the occasional turkey?" and I am sure there will be lots of ... no shortage of turkeys in our cupboards. So that is my position. I think we need to be quite clear, this is not about imposing our view on other people; it really is just about respect for humanity and drawing a line and saying: "Enough is enough." We have most days of the year where we can purchase, where we can make money, and we need to take a bit of time out.

#### **1.1.8 Deputy P.V.F. Le Claire of St. Helier:**

It is interesting really listening to some of the speeches today, how we are moving into the future with this legislation and finding ourselves in some way as a community and trying to have specific regard to our Christian roots in this community predominately. It was interesting to listen to your

oath, Sir, the other day in the Royal Court where you swore to protect the rights of not only the Island, but also the rights of God and other such ... I do not recall the entire oath, but to preserve God and Christianity, I believe, in your oath. It is very interesting that we are talking about Sunday Trading because of Christianity, yet we all know that Jesus Christ was a Jew and the Sabbath for Jews is Saturday, I believe. So it is a peculiar situation that we find ourselves in, that we are talking about closing shops to recognise an individual, the son of God, particularly on what could be described as the wrong day. So, when we look at 25th December as Christmas Day, as the day that Christ was born, are we certain that that was the day? Not that this is about that day, but this is about ... **[Interruption]** It was, somebody said. **[Interruption]** It was not? I am not trying to get too deep into this, but what I am trying to make the point is - I know I am losing Members, but I just please ask them to ... if they cannot stay with me, to at least give me an opportunity to speak - that while I am quite religious and a Roman Catholic and a follower of Jesus Christ's teachings, I do not know whether or not it is right to put a blanket requirement of those teachings on a community. There are certainly people in this community that are not Christians. There are certainly people in this community that have no faith. To completely apply this on this day and have it because of religion in trading activity makes me a little unsettled because Christianity, at the end of the day - and I am sure the Dean can tell us - it is something you must embrace. You cannot be a part of this church unless you are a willing member. To go into this, you cannot be dragged in and it cannot be beaten into you, it is something you have got to embrace, so why force it upon somebody? I wanted to speak because I wanted to just make that point and also to ask a question. From my reading it seems that everything on these days, and all shops on these days, would be ... it would be very, very difficult for people to get things that they would need anyway; maybe perhaps in some locations. Without knowing specifically what those locations would be in and what areas they would be in and what exactly they would be able to sell you, I am not certain I can support this, which is quite difficult for me because I certainly do embrace making as much effort as we can to enable these laws in regards to Sunday trading more progressive. While at the same time I do find it difficult going against my beliefs, in opposing my own ... I am sort of at war with myself on this one, so I am just uneasy about it. I do not know if the proposer can give me some comfort, but I do feel that maybe perhaps there needs to be some facilities in the Island for certain situations, for certain instances, and certainly accessible to the different areas of the community. I do not know how that needs to be regulated, but I do think they need to be available. I do not think that a blanket closure is perhaps the wisest thing.

### **1.1.9 The Dean of Jersey:**

I do not think this is the moment to give a short seminar on the exact date on the birth of Christ. I think the important thing is that this is the date the world recognises as being the date to celebrate that, whenever the event took place. I do not think there is any reason to apologise for the fact that particular factors shape our culture. I have to say that - I am delighted to say - I agreed with everything Deputy Tadier said, both for the religious reasons that you would expect, but also as a protection of those people who do not need to work, in terms of farmers or nurses. I work on Christmas Day too, so I declare an interest in that. **[Interruption]** It does seem to me that saying that a cultural tradition - in this case, Christian faith - has shaped the way in which a community operates, it is not something for which we need to apologise; the rest of the world does not do that. If you visit other countries then you do find that the way in which they operate things - if you go to the Middle East, it is going to operate in an Islamic way and that is absolutely fine - there should be no apology for saying this particular culture has shaped our Island and therefore to celebrate and to make Christmas Day, for example, different is not something for which there should be any apology. Practically, it does seem to me the lovely thing about Christmas Day is you have 364 days to get ready for it. It does not creep up on you. You do not suddenly wake up and think: "Goodness me, it is Christmas Day. I should really have gotten around to buying a turkey." It just is not like that. I endorse everything that has been said about a bit of neighbourliness without in any way wanting to say we need to have great restrictions on people's great freedoms. I am also

concerned - and I have said this before in this Chamber - for those who work in the retail sector. They are not the most easily protected group of individuals. Many of us, through student days, went and worked in shops in the summer or in the Christmas vacation and understand that a little bit. It does seem to me that we should not put people in a position where they have to work on a day that should be special for them as well. It seems to me, therefore, that there are both cultural reasons for making Christmas Day special, but also there are very good secular reasons. I think it was after the French Revolution that they experimented with a 10-day week or something like that and it did not work. There is a rhythm, which I would say is a creation rhythm, built into us that does need those times to be different. I have every sympathy with the closed cinema and I certainly would not want to go down that route particularly, but I do think if we cannot understand that Christmas Day is different and special, then not only would we be denying protection to vulnerable workers, but we would be taking a step towards denying the culture that has shaped us for absolutely no good reason and that would be my advice, without in any way, of course, treading over the line that we have been telling Members what to do; I would not want to do that.

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

I have got 3 words on my prompt sheet here and they are God, mammon and the workers. Certainly Deputy Tadier focused on those issues and I will try to do similarly and briefly. Now, Deputy Tadier said that the important element here - or one of the important elements and the one perhaps that was swaying him - was protecting the workers. But he did not mention that that is the job of legislation. That is the job of the unions, to protect the workers, and we can do that elsewhere. Indeed, we are working on putting that protection in place as we speak and we are developing that. So, to my mind, the workers go out for once. They are not germane to this argument. It comes down to God versus mammon. When I was listening to the Constable of St. Clement's speech, where he started on about the poor, good Samaritan shopkeeper who opened on a Christmas Day even though he was making a massive loss, he almost persuaded me to vote for God. But it so happens I have just started last night *The God Delusion* by Richard Dawkins, which I recommend to anybody, and in the very first chapter he says: "I want to get one issue out of the way before I starting talking" about why he is an atheist. He said: "What is it about religious belief that people are persuaded to respect and walk around, no matter how nonsensical it may be?" If somebody says: "I believe the earth is flat" we argue. If somebody says: "Salman Rushdie should be pursued and prosecuted", we go: "Oh, that is your religious belief. Oh, perhaps I have to respect that." So, what it comes down to is God versus mammon. For once, for me, I think I go with the liberal view that says: "If shopkeepers want to open they should be allowed to open and that God does not have a place and faith does not have a place in this sort of issue." I will be voting for mammon.

**Deputy M. Tadier:**

Can I seek clarification from the previous speaker? He suggested that workers go out the window because they are protected by the unions, but it is my understanding that these types of workers, for example who work in Checkers or Spar, they do not tend to be unionised, so in fact they would not be protected.

**The Deputy Bailiff:**

That sounded more like another speech rather than a point of clarification, Deputy. Do you wish to comment, Deputy, and clarify your speech?

**Deputy G.P. Southern:**

I never said the workers go out of the window. I said in this case the worker argument is germane.

**1.1.11 Deputy K.C. Lewis:**

I will be brief. I will be supporting (a) because I think Christmas Day is special and should remain so. Regarding (b), mention has been made of one of the local cinemas sadly closed, which is

common knowledge that I ran for several years. We were not permitted to open on Good Friday and as the Dean and Deputy Martin have made reference to, staff that did work on the Good Friday for the religious films did so voluntarily and there was a retiring collection for the church and films were shown with a Christian message. The point I need to make, this was nothing to do with, as far as I am concerned - but I stand to be corrected by the Acting Attorney General - the shops' Regulations, but was more to do with the Bailiff's entertainment permit, which excluded Good Friday opening. Thank you.

**1.1.12 Deputy J.G. Reed of St. Ouen:**

Lest we forget, we are a Christian community with laws founded on Christian values, including, I hasten to add, this one about Sunday Trading. I do not believe that this amendment is focused on denying people the opportunity to shop, as some would suggest. I believe, more importantly, it is aimed at recognising the fact that there needs to be, and we need to find a balance, between the commercial aspects of this Island and family life. In this case, the amendment, or the 2 parts of the amendment, identifies 3 - and I underline the word "3" - out of 365 days of the year that we recognise to be special and should be treated as such. I would hope that most States Members will support the amendment. Thank you.

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

I will be brief because a lot of things have been said and I get great pleasure to second this proposition. It is a very important day, as the Deputy of St. Ouen has just said. It is only 3 days in the whole year. It is important that they are protected and for religious reasons as well as a national day. I would just say I am very pleased with the ... impressed with the culinary skills of Deputy Gorst. Obviously he had good parents who showed him how to cook. Let us go back to family life; those days are important. I spent most of my working career working some time over Christmas, New Year, and other public holidays because I had to, but it was because it was part of the job. To be able to have it off, to spend it with our family, that is the most important thing. Just to pick up on a point that Deputy Lewis and other Members have said about the cinema being open on Good Friday, to give you a bit of a history lesson, it does go back to Lord Rank who owned the Odeon Cinemas and he was a very staunch Methodist. It was his tradition that he felt that his cinema should be open free of charge to show a film, as has been said, with a Christian message. This continued in the U.K. for many years, and over here. I would like to thank Deputy Lewis for continuing that tradition for the last 2 or 3 years and to stress it was free of charge and with a Christian message. I have no doubts to urge Members to support this very, very important proposition. Thank you.

**1.1.14 Deputy A.E. Jeune of St. Brelade:**

The Connétable of St. Clement said we can be tolerant and definitely we should be, but we should not give up our beliefs. As the Dean said, when you go to other countries you respect what is going on there and very often the shops are shut on the day you arrive and you are in a self-catering apartment. But he also spoke about people on their own, and that is something that we should all think about over the Christmas time. My understanding is that certainly in one Parish that I am aware of, the caretaker prepares a Christmas meal for persons whom she is aware would otherwise not have one. As for Liberation Day, that is unique to the Islands and I will definitely be supporting both sections of this proposition.

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

I supported Deputy Green's proposition yesterday because I felt it helped protect or rather helped to return the Christmas holiday to a special time. Consistency, I feel, is important, so I will obviously be supporting Deputy Gorst. I do, however, appreciate where the Constable of St. Clement is coming from with his talk of occasional turkeys, but as a vegetarian I am afraid I have to apologise and tell him that Deputy Gorst's argument is more persuasive. Perhaps he could have dangled the

carrot of a nut cutlet and I would have been won over. Consistency, as I say, it is important, certainly to me, I think to the House and most definitely to the public. On that note, I have to say it would be interesting, I believe, to see whether that consistency continues tomorrow with the Boxing Day proposition. So we have heard about Christian values. I would enlarge on that, to add that I believe that special, almost magical something - and I am not quite sure what it is, to be honest - that appears to touch most of us over the Christmas period especially is something that is special to many who do not have any faith at all or maybe even a different faith. Thus, as the Dean has said, I feel there is an onus on us to protect people who need to work in retail: people like those who, I am already aware, have been told if they do not turn up very early this coming Boxing Day, they will be sacked, period. That is the reality. No choice, no dangling of carrots. They are sacked. Deputy Tadier talked about worshipping the golden calf, but I will leave the biblical references to him because he does them very well, though not as well as the Dean, I have to say. Sorry, Deputy. I do understand where he is coming from. I conclude on that theme by saying just that I believe pounds should essentially be made to work for people, not people be made to be slaves for pounds. Christmas is, above all, special. Liberation Day very much so, of course, as Deputy Le Claire, I think, made the point, and I do feel that I must support Deputy Gorst and I congratulate him for bringing it.

#### **1.1.16 Connétable M.K. Jackson of St. Brelade:**

I think that the present system works quite well in that I have not any evidence of objections from any members of the public or shopkeepers or those who work in shops having to work on Sundays or Christmas Eve particularly, in this case. The present situation is that the Connétable has the discretion whether to allow small shops to open or not, and I for one would not support the opening of chain stores on Christmas Day. I would be quite happy to support the opening of small owner-operated outlets for whom it tends to be more of a social occasion, I have to say, from a commercial necessity. Lifestyles have changed considerably over the last few years and I really do not think we should be micromanaging public holidays and thus I shall not be supporting the proposition.

#### **1.1.17 Deputy D.J.A. Wimberley of St. Mary:**

The previous speaker but one went back to the cash cows and the golden calves, but I will not milk that analogy any more. I think Deputy Le Claire's trouble is the key to this debate. He was trying to articulate something that is really important and is what this is about, and the issue is whether we are, by accepting this amendment, imposing a lifestyle on others. Clearly, if we are doing that, then there is an issue and we have to be very careful. Deputy Le Claire hit on it as he was searching by pointing out, for instance, that this might not be the right day and we will not go into that, but the fact is it is 25th December by tradition and he did not mention that Jesus was not a Christian, though he did say he was a Jew, and so on. You can get quite complicated, but the point of what he was saying was that that is not the point. The point is what Christmas Day now represents, and the Dean mentioned that, of course, very much in the context of the Christian heritage, but I would go further than that and pick up on what Deputy Trevor Pitman has already said about that magical something. That is the nub of it, is it not? It is not just a Christian festival for Christians any more, and people who have no allegiance to Jesus Christ sing the carols and something is going on and they look at Christmas trees and so on. Of course there is a lot of commercialisation. Of course it has been bastardised, but underneath it somewhere, people are stirred in a very special way at Christmas. It is a day in the middle of winter when we look up and see the stars, and that is what Christmas Day brings to everybody, and if we fail to support (a), then we are letting go of something really, really valuable and we are telling the world out there what our values are. We are saying that that magical something does not matter, it really does not matter; it is just a day like every other day and so it goes. So that is my comment on the Christmas Day. I really do think it is not about imposing lifestyle and somebody else used the phrase: "Is Christmas Day a special occasion?" That is what we are deciding: is Christmas Day a special occasion? So please do not get confused by this, by thinking in terms of what one speaker said, we should not give up our

beliefs, we are a Christian country. I would not go that far, but I would say something special is here that must not be lost. In paragraph (b), Liberation Day and Good Friday, it is not a matter of forbidding trading on those days. It is a matter of marking them out by forbidding the Minister to make them into special days whereby there is a shopping free-for-all. That is what we are forbidding if we go for paragraph (b), and then those 2 days, Good Friday and Liberation Day, become under the mantle of Sunday Trading and it would remove the uncertainty we had, I think it was this year, when people did not know what was going on with Liberation Day and the decision was taken very late and we would just have said these 2 days are special and they come under Sunday Trading. So they are not totally special but they are relatively special and I will leave it there.

**1.1.18 Deputy P.J. Rondel of St. John:**

I believe in a supreme being and we are in a Christian society and Christianity is the way this Island has been for many generations. To me, it is important that we recognise the various religious days within the church, and over the years we have seen the dwindling of the way of life within the Island and of family values, and I said this yesterday so I will not repeat it because I am sure Members will remember. That said, I will move on to Good Friday and Liberation Day. Good Friday, to me, was always - as a child - spent fishing with the family. Believe it or not, it was a tradition in our family that we would go low-water fishing followed by a barbecue on the beach, or a bonfire on the beach in those days, with all the family from the grandparents right the way through to the grandchildren, and there might be 30 or 40 of us. That is how we would spend Good Friday, and as we grew up, we had - and it was mentioned earlier - the film at the Odeon that we could go and see. Then later on we have seen it all nibbled at the edges and we see discos playing and the like and licensed premises opened and then shops now opened, *et cetera*. Yes, it has moved forward with the times, but I am opposed to things moving forward too fast because we still need our values. We still need our values. So we must thank people like the former Bailiff, your brother, Sir, for the hard work he has done over his tenure in his office in making Liberation Day the day that it is [**Approbation**] because it was going down the road of becoming just another Bank Holiday, and thanks to the former Bailiff and officers of the court and this Assembly that we bring it back to something very, very special for this Island. I will not say any more, but I am totally in favour of this amendment and will be supporting it.

**1.1.19 Senator J.L. Perchard:**

Of course Christmas Day is a special day for everybody, even those people who are working, for atheists and for people like the Deputy of St. John who do believe in a superior being. The problem is there is a certain amount of hypocritical nature among what many people are saying. I say that because Members have highlighted the opening of shops and the shop workers who will have to work on Christmas Day... but many Members will travel to the U.K., perhaps leaving on Christmas Eve and using trains or receive family members arriving on Christmas morning or Christmas Eve who are expecting the travel facilities, emergency services. We may even go out for lunch on Christmas Day, a very nice family occasion. We expect to be served. We will turn on the electric lights. We will turn on the taps. We expect all that to work just as normal. Our transport links, as I say. So we are being hypocrites really to say that the little corner shop cannot open. We are nuts if we decline to support Deputy Gorst here. We are not saying this is going to be a mass free-for-all, a retail race around and have all the shops open. We are leaving this to the discretion of the Connétables to open the little family village shop, as they see fit, between 8.00 a.m. and 10.00 a.m. perhaps on Christmas Day, Good Friday, because Members have to remember that the day leading up to Christmas Day is Christmas Eve, and the 23rd before that. Many people will be working those days in order to have Christmas off. Why would they not be able to pop in and get a pint of milk on Christmas morning or Good Friday morning? We are not talking about a retail free-for-all here. We are leaving it to the discretion of the Connétables. I say to Members do not impose one part of your values while ignoring really what happens underground. We are talking about the shop



window here. If a shop shuts, behind that shop window, believe me, so much goes on to make sure that the shop is ready to open tomorrow. Transport, food packaging, but we are not talking about closing that down. We are just talking about the shop window. We are just denying those people who need the shop on those 3 important days the opportunity to go shopping. The engine room that keeps that shop open of course is still throbbing and we are not looking to impose our views and high-principled morals on the engine room. So I ask Members to think very carefully about this. While, superficially, it is a nice proposition, cosy and cuddly and we will all go away feeling much better, I am not sure whether the 2-faced nature of this is something that I can support.

**The Deputy Bailiff:**

Could I ask Members to respect the view that when other Members are talking, they should try to keep their voices down? Thank you. The Connétable of St. Saviour?

**1.1.20 The Connétable of St. Saviour:**

I think we are rather losing sight of what the main proposition is here which is to simplify and make workable the Regulations for Sundays and special days. I do not have a problem with part (b) of this amendment because I am quite happy for those days to be controlled by the Constables as a Sunday. This main proposition will make things more workable. The amendment of taking Christmas Day out of the control of the Constables I think means that we will have areas where there will be no more convenience store. What will happen is that people will get in their cars and drive to a chemist in town or wherever where they will be able to buy their pint of milk or whatever it is they need. That is a decision they can make. It is up to people to decide if, for religious reasons, they do not wish to shop on a Christmas Day. They can make their arrangements beforehand. They do not have to do it. Eventually economics will make the decision for us because if we, as an Island, do not shop on Christmas Day, the convenience stores will find it is not sensible for them to open and they will not open. Nobody is forcing them to open and therefore I think we can allow the main proposition to go through. There is no reason for people to say, I think, for religious reasons they should not be open. They just do not have to use them. People can make their own choices, and eventually economics will decide whether those shops are viable or not.

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

Really I come from a point of view “If it ain’t broke, why fix it?” because the situation we have now is that the Connetables can make their discretion and allow a shop to open or not on a Sunday. Invariably the Connétables, apart from a couple of instances recently where Fête de Noués and Fête de la Libération have confused the issue, certainly the country Parishes do tend not to allow the larger shops to open. I think, just touching briefly into the Christianity point of view here, as Christians I always believe that it is our role to encompass other people and to respect their needs and requirements as well. In one of my former lives, I had many occasions to go into a lot of the houses around the north of town which invariably one would term ‘bedsit land’ where people did not have fridges, where people worked right up until late on a Christmas Eve and they needed to find somewhere to go and get their pint of milk and perhaps even their meal for the following day and they would go to the local convenience store to do that. There are people in our community who do not have the same beliefs as we do and would wish to work on Christmas Day or do whatever they wanted to do, and shopping may well be part of that as well. I would like to give notice to the Minister for Economic Development and the Assistant Minister that in their comments for part 2, there is a sentence there which I will just read out very briefly: “In any event, Regulations can be made under the law to restrict the size and type of shop which might be allowed to open on Christmas Day.” I would give notice that should there be any creeping into the larger stores and supermarkets requiring to be open, I will come back with a proposition more or less identical to Deputy Gorst and support it to ensure that larger shops do not open and it is restricted only to convenience stores, to the essential needs of that particular day. At the moment,

unfortunately, and I say through the Chair, to Deputy Gorst, I cannot support your amendment because it takes away the element of discretion which has for many, many years been well managed by the Connétables. Thank you very much.

**1.1.22 Deputy J.A.N. Le Fondré of St. Lawrence:**

After the last couple of speeches, I thought I would just stick to my own conclusions, but I will say to an extent there have been comments about do we impose our own standards on to legislation. Surely what we are made of or what formulates us are our individual views, standards and experiences during our lives. That is what makes us and that is what brings us towards the decisions that we make in this Assembly, and it is the 53 of us all together who make the legislation or make the rules. Therefore I do think it is appropriate for us to take those experiences and views, *et cetera*, as part of the hotchpotch of the society we represent. I do have to make a slight comment because I have to say I could not stop laughing at the expression on the Assistant Minister for Economic Development's face during the opening speech by the rapporteur. Obviously he does not read from the same cookery book as Deputy Gorst on the matter, particularly in relation to gravy and how to make it. The comment about strange bedfellows... I have to say I have never envisaged Deputy Southern and Deputy Martin as being, I think it was hardcore capitalists in the phraseology of Deputy Tadier in terms of who or who would not support this proposition. I do have to say I think Deputy Tadier and the Deputy of St. Mary made some quite good speeches in terms of the comments they have made and also the Deputy of St. Mary tries to bring us back to the proposition. The proposition is saying, effectively, Christmas Day should be a special Sunday almost. It has got to be more than a Sunday, and Good Friday and Liberation Day should be treated as a Sunday and no worse, and that means you cannot do a blanket provision to open; you have to deal with things specifically. So it is not as restrictive as some speakers are trying to make out. I think that is the key thing: to keep going back to the proposition. I do not think I really want to be part of the brigade in the way it will be portrayed in trying to make Christmas less special. In my view, if you do not support that proposition, that is how it will be portrayed and I think we should be supporting both parts.

**The Deputy Bailiff:**

No other Member wishes to speak? I call on Deputy Gorst to reply.

**1.1.23 Deputy I.J. Gorst:**

It has been an interesting debate and it has touched on most areas of thought and how we order our society, the effect of our beliefs upon how we order our society. There have indeed been some strange bedfellows as Deputy Le Fondré has just pointed out. Never did I think I would see the day when Deputy Martin was classed as a hardcore capitalist. I was, I must say, quite surprised by Deputy Southern's comments, a man who is also rightly proud to align himself with the trade unions and the trade union movements, dismissing out of hand faith and those with belief when one considers that that movement itself was born and grounded by people of faith and still today that is the case in the United Kingdom, perhaps not in Jersey. I must just pick up on a few small points. As I said right at the start, I suspect that most Members have made their minds up before entering the Chamber and it is a matter in this case for each individual Member to make their mind up. I appreciate entirely where Connétable Norman was coming from. You could make a lifestyle argument. One of the other points he made was that not everyone finds Christmas the same way that I might, and I am only too aware that for some individuals within our society the Christmas period is the one that they dread throughout the year because they are lonely, because they might be estranged from their family and because they find themselves in an alien land. While I recognise that, I believe that that raises other issues for us to address as a community and is not an argument for us allowing shops to open on Christmas Day but challenges us as individuals, whether we care for our neighbours or not in the way that we should. I must also just pick up on a point that Senator Perchard made. I am not certain if he has slightly misunderstood what is happening with my

amendments. There are, in effect, 2 amendments, as many speakers have tried to clarify. The first is to limit or, in effect, stop shops from opening on Christmas Day. That is a stand-alone amendment. The second amendment is in relation to Good Friday and Liberation Day, and that will simply limit or stop the making of blanket permits and stop the Minister from designating them special days. The result of that designation would be that, in effect, we could have a free-for-all on those days and not just Sunday trading. If we accept this amendment, then it will then fall to us to decide what those days should look like under the Regulation. The Senator used the phrase “little family village shops”. I am not certain that one can say that shops like Spar or Checkers or Checkers Express, in effect, fall into those categories. It is a sadness, and I suspect that most Members would agree with this, that one of the effects of globalisation and consumerism is that we have seen the death of the little family village shop. This is about something else entirely and this is about stopping those shops from opening on one day of the year. I think we can hardly say that stopping trading on one day of the year is the death knell of the little family shop. In fact, I think we could safely say that had we protected perhaps Sunday trade, although we have in this Island done that, but in other jurisdictions had they protected Sunday trading and kept a level playing field where those small operations were able to manage their overheads and did not have to compete with large multinationals throughout the weekend, then perhaps that in itself would have protected little family village shops more than we have seen, but that is another argument. While the arguments have raged across every subject during this debate, perhaps I should stop there. The Connétable of St. Brelade and the Connétable of St. Peter said that they could not support this, and I appreciate that because they felt that the current situation with regard to opening on Christmas Day was appropriate and that they, as Connétales, should be allowed to decide and make those Regulations, which I appreciate what is being said but it does confuse me slightly because it was my understanding that one of the reasons that the Chamber of Commerce and Economic Development has backed that call is to rid us of what they have called the postcode lottery. What, in effect, one would be saying by not accepting my amendment is that we will rid ourselves of the postcode lottery on every other Sunday and special day, but on Christmas Day we still believe that it is appropriate to maintain that postcode lottery, and I am afraid that is not an argument with which I am in agreement. I will just pick up finally on a point made by the Connétable of St. Saviour who, I am afraid, if that argument was taken to its logical conclusion, it would seem to me to be a powerful argument in supporting total deregulation rather than just on this particular day. I would like to pick out and thank all the speakers who have supported this amendment. I would particularly like to thank the Deputy of St. Mary who I believe clarified once again what exactly it is I am trying to achieve with these amendments and made some very clear points which I hope that Members will support. So, to sum up, part (a) is to stop trading on Christmas Day other than those exempt services, and part (b) is to stop the issuance of special occasion and blanket permits on Good Friday and Liberation Day, and I hope that Members will be able to support this, thereby protecting, as I have said right at the start, the character of those 3 special days within Island life, and I call for the appel, Sir, please.

**The Deputy Bailiff:**

The appel is called for. Members return to their seats.

**Deputy I.J. Gorst:**

On (a) first, Sir, please.

**The Deputy Bailiff:**

Indeed. So the first vote is on the omission of the words “Christmas Day” from the draft Article 4(a). Those Members who would like to vote, the Greffier will open the voting.

<b>POUR: 30</b>		<b>CONTRE: 17</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Senator P.F. Routier		
Senator F.E. Cohen		Senator T.J. Le Main		

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

### The Deputy Bailiff:

We come now to the second amendment under paragraph (b) which is to include the provision that Regulations may not, by Order, designate Good Friday or Liberation Day as a special occasion. The Greffier will open the voting.

<b>POUR: 40</b>		<b>CONTRE: 8</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Senator T.J. Le Main		
Senator P.F. Routier		Senator S.C. Ferguson		
Senator B.E. Shenton		Connétable of Grouville		
Senator F.E. Cohen		Connétable of St. Peter		
Senator J.L. Perchard		Deputy R.C. Duhamel (S)		
Senator A. Breckon		Deputy R.G. Le Hérisssier (S)		
Senator A.J.D. Maclean		Deputy J.A. Martin (H)		
Senator B.I. Le Marquand		Deputy G.P. Southern (H)		
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy of St. Martin				

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

**1.2 Draft Shops (Regulation of Opening and Deliveries) (Jersey) Law 200- (P.111/2009) - Article 4 as amended**

**The Deputy Bailiff:**

We now return to the debate on Article 4 of the draft law. Does any Member wish to speak on this article as amended? Senator Breckon?

**1.2.1 Senator A. Breckon:**

Just a couple of points. I did mention yesterday that on one occasion when I was looking at the Sunday Trading Law, I did go to a Comité de Connétables meeting and there was some tension between some of the Parishes and the Connétables at the time - it was a few years ago - of how this should be handled, the permit system. The reason I say that is that perhaps there could be some consistency in decisions because you could have perhaps a Tesco in Grouville where permission was given for somebody to trade, and in St. Peter and St. Martin there may be substantial outlets there that are not given permission, and that would lead to problems. So the reason I say that, and perhaps that could be touched on in the summing up of this Article, whether that will happen. There will be reasons why people in that locality may object, but having said that, I think there needs to be some consistency applied: not just applied but seen to be applied because I know some concerns have been expressed already with some traders. They see this being unfair in that somebody in a certain Parish can trade and somebody else in another Parish cannot. So with that, I would ask if that could be addressed or borne in mind when the applications are being considered.

**The Deputy Bailiff:**

Does any other Member wish to speak? Assistant Minister, do you wish to reply?

**1.2.2 The Connétable of St. Clement:**

Yes, Sir. As I said in my opening speech yesterday, consistency and fairness is absolutely key to the success of this, and that is why we have in this Article the ability to make Regulations which will make it absolutely clear to the Constables the standards which Constables are expected to use when giving permits. In addition to that, of course, the Constables will also create guidance notes to which they would all sign up to and have to apply to make sure that there is consistency and if by some chance of fate that a maverick Constable does get elected and starts going against the spirit of

the Regulations or the Code of Conduct or the guidance notes, there will be an immediate recourse for the retailer to an appeal which they currently do not have. So I am very confident that consistency and fairness will apply throughout. I maintain the article, Sir.

**The Deputy Bailiff:**

The proposition is whether to adopt Article 4 as amended. The appel has been called for. Members are invited to return to their seats. The Greffier will open the voting.

<b>POUR: 40</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy of St. John		
Senator P.F. Routier		Deputy J.M. Maçon (S)		
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy of St. Martin				
Deputy R.G. Le Hérissier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				

**1.3 Draft Shops (Regulation of Opening and Deliveries) (Jersey) Law 200- (P.111/2009) - Articles 5-11 and Schedules**

**The Deputy Bailiff:**

Assistant Minister, do you wish to take the remaining articles *en bloc* or ...

### **1.3.1 The Connétable of St. Clement (Assistant Minister for Economic Development - rapporteur):**

Article 5 introduces the power to the States to make Regulations regulating wholesale delivery on Sunday and also the ability to restrict the size and class of the shop accepting deliveries, and plus will have taken into account when delivery occurs the effect on local residents. Interestingly, these Regulations will apply not only to shops which have a permanent break but also shops which are closed because deliveries to the shops which are closed on Sundays can also be a disturbance to residents. Article 6 makes it an offence to give false information for the purpose of obtaining a permit which is probably the most serious offence in the law, and again there will be an unlimited fine for which the court will have to consider the proportionality of the offence. As I said yesterday, the offences committed by a relatively small shop making a small profit is a big difference from a major supermarket opening and making several thousand pounds. That is why it is an unlimited fine on that. Article 7 confirms that the Constable or Centenier can deal with an offence except under Article 6 at the Parish Hall if it is a relatively minor nature, with a maximum fine up to £50. Article 8 covers offences by bodies corporate rather than individuals, and Article 9 makes a lease void if that lease says that a shop must open on a Sunday when obviously there are laws, it should start with the assumption that it should not be opening on a Sunday. Article 10, transitional arrangements after the Regulations have been approved later this year will need to wind up the 1960 Law, and at the time, of course, there will be businesses that will have Sunday Trading permits which will extend to the end of 2010. So there will be transitional arrangements which will have to be made. Article 11 and the schedule are the consequential amendments which are needed and Article 12 is a citation and commencement. I propose the Articles, Sir.

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

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

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

I wonder if I could ask in relation to 8(2). From its wording it seems suspiciously as if it refers to the co-operative movements and I wonder if the proposer could clarify or perhaps the Attorney General would be so kind if they could clarify who indeed will be the person at action were there to be a contravention of this law. I presume it means in 8(1) that it will be an officer of the society in the case of the co-operative movement, but I wonder if that can be clarified. I cannot understand 8(2).

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

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

### **1.3.3 The Connétable of St. Clement:**

I do believe that this is a standard paragraph. The Attorney General Designate might be able to advise better than I can on the legal aspects.

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

Yes, this is a standard paragraph that does indeed appear in many pieces of legislation and is designed obviously to cover in general how offences are dealt with where they are dealt with by bodies corporate. The subparagraph (2) seems to me to apply to those circumstances where there are a number of people who in theory could have management of a corporate entity and the criminal culpability is designed to attach to the people who have carried out management functions as opposed to theoretically all who could have had that control over the entity.

#### **Deputy R.G. Le Hérissier:**

Just to clarify, in other words the voluntary members of the cooperative board would not be brought to court were there to be a contravention?

**The Attorney General Designate:**

It would depend. I am afraid I am not sure of the way that the board is made up of that particular entity, but if they have no real management function and carried out no management function, they would not be called, in my view, under paragraph (2).

**The Connétable of St. Clement:**

I thank the Attorney General for his help and I maintain the Article, Sir.

**The Deputy Bailiff:**

Thank you. The proposal is therefore to adopt Articles 5 to 12 and Schedule 1, parts 1 and 2 of the draft law. All Members in favour? The appel is called for. Members are invited to return to their seats. The Greffier will open the voting.

<b>POUR: 42</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy of St. Ouen		
Senator P.F. Routier		Deputy of St. John		
Senator T.J. Le Main		Deputy J.M. Maçon (S)		
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				



Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				

**The Deputy Bailiff:**

Assistant Minister, do you move the Bill in Third Reading?

**1.3.4 The Connetable of St. Clement:**

Yes, please, Sir.

**The Deputy Bailiff:**

Does any Member wish to speak? The Bill is moved in Third Reading. All those Members in favour, kindly show. The appel has been called for. The Greffier will open the vote.

<b>POUR: 40</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy of St. Ouen		
Senator P.F. Routier		Deputy of St. John		
Senator T.J. Le Main		Deputy J.M. Maçon (S)		
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				

## **2. Committee of Inquiry into the Management of the Health and Social Services Department (P.145/2009) (re-issue)**

### **The Deputy Bailiff:**

We come next to the Projet 145: Committee of Inquiry into the Management of the Health and Social Services Department. The Greffier will read the proposition.

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

The States are asked to decide whether of opinion (a) to agree that a Committee of Inquiry be established in accordance with Standing Order 146 to inquire into a definite matter of public importance, namely the actions and effectiveness of the Management of Health and Social Services and other services available to vulnerable children; (b) to request the Health, Social Security, and Housing Scrutiny Panel (i) to identify an appropriately qualified individual organisation to be invited to undertake the investigation and to bring forward for approval by the States the names of a proposed chairman and members and (ii) to bring forward for approval by the States detailed terms of reference for the Committee of Inquiry.

### **The Deputy Bailiff:**

The proposition is in the name of the Health, Social Security and Housing Scrutiny Panel. Senator Breckon?

### **2.1 Senator A. Breckon (Chairman, Health, Social Security and Housing Scrutiny Panel):**

The background to this arises from the review that was undertaken, and I want to touch upon some of the details of that without going into it chapter and verse. Perhaps the best place to do this is in the report that was produced by the sub-panel, and I did say in the foreword ... I would like to quote from some of this because it is relevant to where we are and perhaps where we are going because we did have a number of individuals, organisations, establishments, States departments who willingly gave their time and effort to contribute to making the Scrutiny review possible in a short period of time. When I was writing the short summary, it was difficult to summarise what I had heard, seen and read and I did not find I could do that effectively in a few paragraphs, but I did say that I believe that the sub-panel conducted an open, fair and rigorous review that focused on the facts. That is important because we are talking about evidence. We are talking about facts, or in some instances lack of them, and that is where the sub-panel were a bit short because in the 18 weeks or so we were not resourced to go into this in minute detail. In the course of the review, I estimated that I had met or I had direct contact with over 100 people and I believe that gave the review weight, depth and variety, albeit in a very short period of time. The panel did recognise because of the time constraints it was not possible to visit or hear from everyone involved on a regular basis for the health, welfare and safety of the Island's young people. To those we could not contact or speak to, I did offer my apologies for that omission. I think it is important at the start to also say that the foreword did also put on record the care, compassion and professionalism that I have witnessed and have been demonstrated to me that there was much good work going on supporting families and children with a variety of sometimes very difficult and emotive situations. I think when the review was set up, there might have been some assumptions from States Members that the Scrutiny review would just look at the review report recommendations and possible implementation plan of the work of Mr. Andrew Williamson. However, I never believed that was the case. I believe the issues were much wider than that and I want to touch on that in a moment or 2. There were issues on which Williamson was silent. There was a range of people who made time and effort to see the sub-panel and make submissions and those working in a voluntary capacity, some highly paid professionals; however I can tell the House that all contributions were treated with equal weight, were greatly appreciated and assisted this sub-panel with its work. We did hear from people at the sharp-end who were caring for young people and families and on too many occasions they told us that interventions were at a critical level. They would have, in an ideal

situation, liked to get involved at lower-level interventions and made a difference, but in the main, too many interventions were at a higher level and this was demonstrated to the sub-panel. During that work, there was evidence emerging that the Royal Court, especially the Family Division, were increasingly applying their minds to the consequences of the Children's Law 2002 which was enacted in August 2005. It was causing some tension, to say the least, in the system when professionals and those advising the Court have had to wear 2 hats. They have been supporting a family but then perhaps they have had to do some sort of review which may have been critical of the circumstances. This has been recognised by the former Bailiff and former Deputy Bailiff - now the Bailiff - that this should not have been the situation. As a result of that, now what has happened, it has put pressure on there and in the *Evening Post* last week there was an advertisement from the Law Officers' Department for a legal adviser for children. Part of the advertising said that the department seeks a lawyer to assist with the very large increase in work that has occurred recently dealing with childcare matters on behalf of the Minister for Health and Social Services and the Children's Service under the Children's Law. It also goes on to say, in the same advertisement - this is the *Jersey Evening Post* of 29th October: "The department appears in the Royal Court on behalf of the Minister for Health and Social Services in matters relating to childcare. The number and complexity of cases dealt with has increased dramatically over the last few years and the current post is part of the States response to the recent Williamson Report on child protection services in the Island. That is a consequence of the introduction of the Children's Law." Also recently at the seminar the Bailiff highlighted other issues that were of concern when children are before the courts on different matters or their custody is before the courts. The Bailiff said this or was quoted as saying this - this is the *Evening Post* of 23rd October: "Public law proceedings are likely to have a profound effect on children. Such proceedings are concerned with whether the States should intervene in their family life and often result in children being removed from the care of their parents. There could be hardly anything more significant or important to them. It is therefore very important not only that our children are given the opportunity of expressing their views in such cases, but also that those appointed to represent them have an appropriate knowledge and experience of the law in this area." He went on to say that during his time as Attorney General, there were very few contested public law cases but that the Royal Court had now made it clear that in all public law cases, a guardian for the children as well as a legal representative must be appointed. That was not the case before. It is now. In saying that, one of the persons who we were not able to get before the panel to give evidence is the former Minister for Health and Social Services, then President when it was a committee system, and the first Minister with the same portfolio, and that was Senator Syvret. I say that for a number of reasons because we wanted to question him because again in evidence we were told that it was pointed out to the legal advisers at the time that the Children's Law we were introducing had defects which would be challenged very quickly and it was not, as it stood, entirely fit for purpose. That was an opinion that was given to us by lawyers in private practice dealing with family law, and there was this and other issues. They were told that at the time this was challenged and ignored. So we wanted to question that with the person responsible and were not able to do that. So then you have to make your own assumptions. Either people were told or they were not and it is now those particular issues are emerging. So that is really where we were with that and that was failing in the system in that we were not able to get that evidence but then we had to make assumptions. The question then is how are the people working in this area dealing with these new challenges? And that is where we are coming to, and what happened in the past, what happens now and what do we do in the future? At the same time during the course of this review, Deputy Le Claire brought a proposition to the States in reference to family X and it was considered and approved at that time as part of the Williamson implementation plan. The pressure at the time was the circumstances had changed and this must be done. The sub-panel's problem was that the agreed funding mechanism was at odds with what the money was identified for. The plan had requested money for on-Island provision. So we agreed something. We were looking at something and reviewing it and it was taken away. So that did cause some problems but also the circumstances there were also highlighted in that report

and in the report attached to P.62. This was from Deputy Le Claire. It said this: "Care proceedings were first instituted in 1999 in respect of these children because there were very real concerns that their parents could not care for them. The system failed the children in the essential period 1999-2000 and thereafter. It then took some 9 years for the children to be taken into care, by which time the children had suffered years of abuse and neglect. A serious case review has now been instituted in response to allegations of multi-agency failures by the States of Jersey." This begs ...

**Senator J.L. Perchard:**

Who is that a quote from?

**Senator A. Breckon:**

This is a quote from the report of P.62 from Deputy Le Claire, but it does say that a serious case review has now been instituted so assuming that that was given to ... the Deputy might like to say in this debate where he got that information from but it is contained in that report. The question ...

**Senator J.L. Perchard:**

Does it matter that that is inaccurate? He is quoting something that is inaccurate.

**Senator A. Breckon:**

I am sure the Senator can respond to that.

**The Deputy Bailiff:**

If the proposer has put out what he believes has been reported in the report of Deputy Le Claire, then that seems to me to be perfectly in order.

**Senator A. Breckon:**

The question then is that if that is factually correct ... **[Interruption]** That is contained in that document. I do not remember anybody challenging that particular statement at that time and therefore it does beg the question if a serious case review has now been instituted, why was one not done before that, and the Child Protection Committee do have a role in there and it has been said in evidence to us that there was improvements with the role and function of that, but then the question is what was it doing before and what was the officer involvement in general terms. I say that because as part of the evidence that the sub-panel received, we also looked at the inquiry that was undertaken by Lord Laming in the U.K. into the very tragic death of Victoria Climbié, and he took the view that everybody was responsible. As part of the evidence, when he was receiving the evidence, a chief executive of one of the local authorities turned up, sharp suit, mobile communications and all this, and he said: "I am a strategy man." Laming let him go on and then he told him: "Well, actually you are not. You are responsible for the actions of this authority and everybody who works for it, so I am having none of that." That is probably in grander terms what he told the person. He also ... and again this is an area where the panel in particular wanted to discuss the issue with Senator Syvret as Minister and formerly Committee President, because a politician with responsibility for some of the issues again said this, and this is what Laming quotes the person having said: "Some use the defence, 'No one ever told me'. Elected counsellors and senior officers must ensure that they are kept fully informed about the delivery of services to the populations they serve and they must not accept at face value what they are told." That is very important because that is what Lord Laming said and he also went on to say in his summary: "Time and again it was dispiriting to listen to the buck passing from those who attempted to justify their positions. For the proper safeguarding of children, this must end. If ever such a tragedy happens again I hope those in leadership posts will examine their responsibilities before looking more widely", and the reason I say that is this comes from the very top of a service. What Laming is saying is we are all responsible and that must be able to be demonstrated. This is not about a blame culture. This is not what it is. It is about accountability and people being accountable for their actions. We cannot be everywhere - we cannot, nobody can - doing everything and watching

everything, but if we delegate responsibility then those that we delegate the responsibility must be accountable however painful that may be on occasions. It is no good saying: "Well, we thought it was all right, yeah, okay" because this is a critical area. Again, I would say that in proposing this the sub-panel have deliberated for a long time because what we were not resourced to do was to look for example at the Child Protection Committee, look at all their minutes over 10 years on a monthly basis to see exactly what they have done, but somebody probably needs to do that and to satisfy themselves that all was as it should be and if agencies, whoever was involved, were acting properly. This is what this is about. Regarding costs, I just want to touch on that for a moment because when the courts are appointing guardians and legal advisers and whatever, it becomes a very expensive business and that is why one of the core recommendations from the sub-panel was quality interventions at a lower level. Let us put the fence at the top of the cliff, not the ambulance at the bottom. The last resort, the critical interventions where people are under pressure, under stress, let us get in at the lower level. There were all sorts of opinions given and there were allegations also made, but one of the things that we did do, we did have our own independent adviser; we actually had 2 and one of them was very well-respected, Professor Ian Sinclair, who works at the Social Policy Unit, at the University of York. We asked him to look at the terms of reference and the recommendations of the Williamson Report and he does recognise that it was indeed a comprehensive report but he also had some criticisms of the way that was done and he said this. Firstly, he was trying to satisfy himself that current practice, particularly in residential care, was not flagrantly and systematically bad and it was, it appears to me, that had he found this out through his interviews with the public, or his visits to the residential establishments. This part of his work did identify some concerns, e.g. about the use of La Moye and about the out-of-hours service, however, he did not feel that there was a current culture of abuse of the kind, for example, that had been identified in the past in some children's establishments in England, Wales and Northern Ireland. He was obviously aware of the concerns about the past but for legal or other reasons he dealt with this as outside his brief. He was also aware that the Howard League Report would focus on these issues in more detail. Also, our adviser said of the Williamson outcomes about the need to emphasise joined-up working. He said it was disappointing since this had been the central plank of the earlier Bull Report. Mr. Williamson seized this as a laudable objective; in practice, however, he is critical of the Children's Executive which was Dr. Bull's way of achieving this end. He says that this Executive has created an additional tier of management within the Children's Service of the Health and Social Services Department, without a clear line of accountability of delegation. It thus muddies the management of looked-after and vulnerable children without offering genuine joint working or the ability to ensure action across departments. He bases these views on his reading of minutes, the uncertainties about accountability found in the corporate parenting group and his observations of meetings. He also went on to say that service redesign within the Children's Social Services Division of the Department of Health and Social Services is the third plank of these proposals. The need for this follows partly from the wish for these services which have the designated lead role in safeguarding vulnerable children, to facilitate a multi-agency approach, partly with particular concerns about residential care and the treatment of young offenders and partly from the concern expressed in his interviews with the public about the out of hours services. He goes on to say: "These changes will not work unless there is adequate and appropriate staffing." On this Mr. Williamson is generally reassuring. This is the fourth plank in his approach. He reports generally adequate levels of staffing and says that most staff have appropriate qualifications. He says that sometimes there are problems because of vacancies or sickness, but generally there is a proactive approach to recruitment and training. His main concerns are that staff can feel they are inadequately supported and on their own and also there is not a personalised approach to training. One of the final conclusions he makes on Williamson is: "Finally Williamson is concerned about the need for external independent scrutiny or more generally what I would call quality assurance. He argues that there is a particular need for this in an island community. The public needs to be assured that bad practice is not being condoned or covered up by old boy networks and there may be a perceived need to guard against complacency

and a resistance to new ideas.” So, there are some criticisms, and we did not select any advisers in particular; we looked for people who had generally no knowledge or links with Jersey. He goes on again with the critique that he gave us to say about the Williamson report: “The limitation is most surprising and also most explicit in the Williamson report. The author was specifically asked to look at child abuse and the procedure and policies surrounding it. Despite this the report [that is the Williamson report] contains almost no discussion on field social work, child protection registers, child protection conferences, serious case reviews, the role of doctors, Accident and Emergency Department, or health visitors in responding to abuse, or the adequacy or otherwise of services for the under 5s, e.g. child minding, day care or family children’s centres. All these issues would be covered in a full treatment of what appeared to be Mr. Williamson’s brief. Mr. Williamson is clearly conscious of this limitation and deals with it by pointing out that Professor Thoburn has been considering this matter and that he has left these things to her. He is certainly right in saying that Professor Thoburn is a distinguished and experienced person, however the Scrutiny Committee must bear in mind that her report, which I have not been asked to consider, must be included in a wider look at child abuse. It is also possible that her remit did not allow her to look at all the issues that need to be covered. The second limitation on all these reports is that they have rather little to say about the culture of the department, or the practice of individuals within it. Their focus is on organisation. Sometimes they recommend good practice. The Howard League Report, for example, does commend the work of the prison officers at La Moye and their ability to form relationships with their charges. The reports are also concerned with bad practice that is embedded in policy and procedures; a possible example being the *grand prix* system at Greenfields. I have not identified in these 3 reports any example where the authors pinpoint personal bad practice, a noxious culture, or a person who is not up to the job. The nearest that the reports come to this is in recognition in the Williamson Report that morale is in some places poor and the reference to staff conflict and disunity in the Howard League report and Greenfields. In the main, however, the focus is on changes in policy and organisation.” It concludes by saying: “As I see it this limitation is not the fault of the report’s authors. To pillory individuals would be potentially unfair, invite resistance or even legal action, lower morale and detract from the messages the authors want to get across. That said, individuals, particularly those in keeping with these positions do matter. The Scrutiny Panel will have to make up their minds on how far any failings in the past have been to do with individuals and how far any changes they wish to see will depend on some changes in personnel.” This is an important point which I will return to later. There are just a couple of other points. He goes on to say: “Personally, I find Mr. Williamson’s discussion of staffing the least convincing part of his report. There are no statistics on the number of staff employed and there is no discussion of what qualifications they need. It may well be that he is right and there are enough social workers, health visitors and so on, and that most of them have the appropriate qualifications. However, I feel that this part of the report is far too scanty and broad-brushed to provide reassurance on these points.” Again, the report was to the panel and our adviser was saying here: “The final plank as I see it, in the Williamson Report’s arguments concern external independent scrutiny. Both his report and the Howard League Report emphasise the particular need for this and for similar reasons. The Bull Report sets out to counteract the reluctance to change implicit with the phrase, ‘That’s Jersey for you’. Whether or not there is, as Howard League says, a danger of cronyism in islands such as Jersey, there is clearly a danger that others may see such a culture. For this reason, even if for no other, there is a strong reason for following the Williamson recommendations on this point. At the same time it is important for the Scrutiny Panel to determine whether the issues of cronyism and conservatism are real or only feared. The fear of them is indeed a strong argument for transparency, independent scrutiny and so on. In this situation the Williamson proposals should be adequate. If, however, the dangers have come to pass and there is such a culture I think it highly unlikely that changes mentioned by Mr. Williamson will on their own bring about the improvement in outcomes he wants. In this case there will, in my view, need to be changes in personnel, not necessarily because those in charge are incompetent, but simply because it is going to be extraordinarily difficult for an insider to bring about the necessary improvement.”

So, this is an issue on which it is very important for the panel to make up its mind. Mr. Sinclair also says: “The Williamson Report provides a very plausible analysis of key changes that Jersey may need to make in its Children’s services. It does not give, or even pretend to give, a full analysis of all aspects of child protection. In particular, it has little to say about services for the under 5s or key aspects of child protection such as the child protection register. Its focus is on organisation rather than on the people who may, or may not, make the organisation work.” That is an analysis that was given to us and the person who gave it had no connection to the Island, no prior knowledge, and they gave us that brief, as I say, without any steer at all from any members of the panel. The other thing we had was a variety of people came to see us and we had a senior person from the N.S.P.C.C. (National Society for the Prevention of Cruelty to Children) and he had this to say, taken from a transcript which is on the public record: “Your question about management and management structures. I mean, I am not going to duck it, but I have to say I am not familiar with the detail of your management. Having said that, when I have been involved in some dialogues more recently with more senior management in the States I have found it terribly difficult to know who has responsibility for decision-making and I think that presents a challenge.” He went on to say: “I think we tend to focus on systems rather than looking at whether we have good leadership. Do we have enough and well-qualified staff that can do the work? Do we have good management?” When I talk about management I mean supervision which is the key. Now, that is consistent with some of the other information that I have just touched on. Again, Professor Thoburn came to see us as chair of the Child Protection Committee and again well-respected, very well-respected. One of the things that did come out from a number of people who gave evidence, they said that while she had been in-post there had been improvements and things had moved on. So, that then begs the question, and the panel did not have time to look at this, what was the situation before? How many serious case reviews were taken? We are aware of matters before the courts. Who was dealing with them? Who was reporting? What action was taken? The panel in the time I had available were not able to go into this detail and that is why we believe somebody should look at it in more detail, but we did not have time to do that. Again, in evidence, part of a transcript, Professor Thoburn had this to say: “I have problems about the structure and I would not have a directorate manager followed by a children’s service. I would get rid of a tier of directorate manager and have 2 Directorate Managers of Children’s Health Services, Directorate Manager of Children’s Social Care. Those 2 will be directly accountable to the Chief Executive and underneath the Directorate Manager of Children’s Social Care would be a series of team managers. Until you have appointed that person you are not going to be able to know how to run the service cost-effectively. When you have run the service cost-effectively you can see how many more social workers you need.” Now, there were issues about reports and scrutiny and slowing the whole process down but I know things have been going on, work has been going on, so it is not necessarily the case. The other things that we had, there was a series of emails that were backwards and forwards and I did say that it was with some regret that the sub-panel were not able to speak officially to Senator Syvret, and I say that because he was in-post as the former committee President and Minister with the portfolio and I want to share with Members the reason why and why I believe there still are things to be looked at and examined which are stretching professionals because we have moved on, especially with the Children’s Law. In an email to Senator Syvret on 31st May I did ask him a number of questions and at the time we had had, for example, the Minister and Assistant Minister for Home Affairs before the panel. We had had the police because we wanted to be satisfied that procedures were in place when children were missing and things like that, so there was evidence that the panel had gathered at that stage that was put on to the website and was available. I said this: “During this period the sub-panel have tried to give adequate opportunity within demanding timescales to ensure all those who have contacted us, and us them, have had the opportunity to either attend a hearing in public or private, or make a written submission or supply the sub-panel with other relevant material, including yourself [this is the email addressed to Senator Syvret]. The sub-panel were particularly keen to speak to you for a number of reasons but mainly as a former President of the Health and Social Services Committee

and the first Minister with the same portfolio. I can say that particular areas of interest to the sub-panel are: (1) the Children Jersey Law 2002, but enacted in 2005 [and I have said to Members earlier the reason to do that was were any problems highlighted at the time because Senator Syvret was the politician with the brief at the time], (2) following the Kathy Bull Report, your view and knowledge of the funding operation role and function, (a) of the Children's Executive, and (b) of the corporate parent." That may be confusing to some Members, but there is an overlap of officers in both of those particular functions. There was a new function but there was also an overlap: "(3) your view on the operation, role and function of the Jersey Child Protection Committee established in 1996." From that we were trying to establish if he had any knowledge of serious case reviews and what the working relationship was because we did not know and still do not. "Your view on the operation, role, funding, promotion and function of the fostering and adoption services" and again we were aware from evidence of some increased funding for that particular service and the good work that was being done, and as Members probably know is still being done - advertising at the moment - and there was money given and it was taken away, so we wanted to question that. I did also say: "We have of course been able to gather information about (1) and (4) above from other sources, however the sub-panel would have valued your contribution; indeed still would. The sub-panel have expressed a view that it may be helpful if you would make a written submission to us at your very earliest opportunity but no later than 12 noon on Friday, 5th June covering what you see as relevant to our terms of reference." I should like to share with Members the panel did not receive that but I did receive a rather robust, should I say, email in response which was not very helpful. The reason for that is, as well, there were other allegations coming in emails in other forms from the Senator and the problem with that is, just to give Members an example, do we treat them seriously, or do we ignore them? Whichever way we have a problem because if they are true and we ignore them and dismiss them because somebody has said something then we have taken a view and because it is evidence-based then we must try and get the evidence which is where we were trying to go, bearing in mind that we were against the clock, as it were. But from another rather longer email from Senator Syvret on 20th May, which went to me and a number of others, within that he had this to say: "The decade's long catastrophic failure in Jersey's child protection system was able to persist and remain largely hidden because of a culture of concealment. Even though I was the politician with political and legal responsibility for child protection for 8 years the truth was proactively concealed from me, my old Health and Social Services Committee, and when I was the Minister. This culture of concealment has persisted for decades, largely through an unwritten code of dishonour that pervades the upper reaches of the civil service to the effect that it just is not the done thing to make life hard for one's colleagues. Thus at any sign of controversy of the truth emerging senior civil servants have invariably closed ranks, protected each other, deceived politicians, covered up each other's [something or other], all to the profound detriment of the public good. Child protection in Jersey, just as many other areas of public administration, can never work, will never work effectively unless and until the culture of concealment and the complete immunity from accountability enjoyed by senior civil servants is ended." Now, I am not sure exactly what that means or where that is going, but that is a sample of some of the things that were received and at the time there was another exchange of emails, there is a bundle of them. Also similar things had been said to the previous 2 Ministers for Health and Social Services; that is to say Senator Perchard and Senator Shenton, and I did say to them: "If we ask you unofficially to supply evidence, could you do that?" Because within some of these emails was a thing that they had been supplied, allegations had been made, and evidence had been supplied to them and it is up to them to speak. What came back, when I asked them, they said allegations had been made but they had not had any evidence. That was what I asked them and Senator Perchard's big enough to speak for himself and Senator Shenton, but that was my recall of that conversation. I did not go into official process; I just said to them: "Have you got anything there that we can do?" As I say, there was again, in other things, phrases like: "Has the conduct performance and ethics of very senior professional staff actually contributed to the gross child protection failures in Jersey and if so, what are the required changes in structure and policy to safeguard this against such failures occurring again?" I think it is



appropriate to say at this time that sometimes people who are accused have had no opportunity whatsoever to reply and defend themselves and that, I believe, is one of the reasons why this must happen. We must air the issues, somebody must investigate, and the people must be given that opportunity, which is part of natural justice, and at the time the sub-panel themselves were being accused of things about having friends in different places and whatever else which just was not the case at all and some of this was turned on the panel. So, I could say this, that I am not doing this as a favour to anybody, I am doing it because it is an issue that emerged from this inquiry where the sub-panel were just not resourced to get into this. As you know, in a former life there was exchanges about the legal standing of a Scrutiny Panel and the test of evidence that was given to the panel and we went into some technical detail with your assistance then, as Attorney General, about the differences between a Committee of Inquiry and a Scrutiny Panel and what was said and what could be actioned after that but the other thing is, as Members will know, there is a note that is given to people who appear before panels. It is not an opportunity for somebody to come and just say what they want about whoever they want. That is not the process at all. So, we were for some time here treading on egg shells, as it were. There were other instances as well where there was this exchange and also I must say we had - credit where it is due - considerable input from the legal profession in various guises, the Family Law Association, and lawyers who are involved on a sadly daily, weekly basis dealing with children and family matters. One of the lawyers had this to say: "I have to say, however, that some of the care cases that I have dealt with in Jersey over the last year are quite alarming, even in comparison with the U.K. experience and often revolving around sexual abuse committed over many years and demonstrating fairly obvious failures in the system. Of course by their nature children's proceedings are conducted privately and very often little becomes known publicly. Instead where there are concerns the Jersey Child Protection Committee may, or may not, become involved and the results of their deliberations may still be kept confidential, and rightly so, but then perhaps there needs to be some demonstration that investigations are taking place and if there are problems, if there are failures, we all realise they are very difficult and emotive areas but then it needs to be demonstrated and that reference also goes on to the remaining unreported judgments as well and issues going on. So, the other thing is there was a recent discussion in this House about the States Employment Board and there was a vote of no confidence. Again, in that debate Senator Syvret used it as an opportunity to air an issue about the role of the States Employment Board and he was suggesting that it was grossly defective in many, many areas and although we were discussing pay at that time it was about the pay negotiations and the quote from that is that he said: "The social worker, who I supported, who was basically sacked from his job for telling the truth and for trying to stop what was a manifestly criminal policy that had been pursued by the States of Jersey for many, many years. The policy involved taking already damaged and messed-up, vulnerable young people and doing things like holding them in solitary confinement." It goes on to other things there. He also says: "The conscientious employee who tried to stop it was sacked and the man who was responsible for driving his sacking notwithstanding the fact that a variety of these things were exposed in the subsequent Employment Tribunal was suspended for merely a few weeks and was given his job back." I do not know if that was true or not. It was said in this House in that debate and in the same speech Senator Syvret also mentioned about something that was in court: "Senior employees have been proved, they have been evidenced to engage in cover-ups." Again, that is something that touches on something that the sub-panel were not looking at but again there was another issue as well referred to and I will just conclude by giving one other example which I became very, very aware of and this was one of the syndromes I began to become aware of very, very early in 2007 which I explored in great detail and came across a wide variety of examples and that is where employees were discovered in some places, for example, having child porn on their computers. In one case in one of the children's homes someone was having an improper relationship with a young girl, a teenage girl, and in many of these instances the attitude or approach of the management at the time when these things came to notice was to call the employee in question into the office and say: "Well, look, this is very serious. Do you understand the gravity of these issues? Your reputation will be destroyed and you will go

to prison for this kind of thing. We cannot possibly have this, but tell you what we will do, resign immediately, just leave the Island, go away and we will say no more about it.” That is what happened. There are many examples where the police were not called. People who were child abusers were basically allowed to walk and go off into other possible work in Jersey, in several cases off to other jurisdictions, and continue and practice it elsewhere because they were not dealt with properly and appropriately. They were not referred to the law. They were not sacked. These were not put on their employment records and consequently as a result of this anything for a quiet life. Let us just sweep it under the carpet. In saying that, I hope Members will understand these things I am saying are not my views, they are things that have emerged, if you like, during the review and after. I have many, many documents on this and when I was just looking through last week, looking for something else, thinking it was something that had come from the Council of Ministers, and it was R.27 of 2008 and it was a Committee of Inquiry into children’s care homes. The proposal was lodged on 31st March 2008 and there is something in there that I think is relevant and obviously we have moved on from that. I know there are grey areas and there are other things going on; that is not the issue. The sub-panel itself was not conducting historical abuse inquiry; we were looking at the co-ordination services for vulnerable children; where are we? How have we got there? And, to some extent, how we go forward. But the Council of Ministers in their report their bullet points were; how have the Island’s children’s homes been run in recent decades? What procedures were in place to recruit staff, and how was their performance of staff monitored? Should other steps have been taken to monitor performance? What measures were taken to address inappropriate behaviour from staff when it was discovered? If these measures were insufficient, what other measures should have been taken? How did those in authority at political or officer level deal with problems that were brought to their attention? What process was in place to assess the performance of the homes and what action was taken as a result of any problems that were identified? Were there any mechanisms in operation to allow children to report their concerns in safety? What action was taken if and when concerns were voiced?” Well, they are bullet points from that particular document and the reason I have used them is they are relevant, I believe, to where we are now because we have a situation where allegations have been made, continue to be made, and for those staff involved they must be given the opportunity. If there are allegations then evidence must support allegations and they must be investigated. That is the reason for requesting this and I should say as well there was information in the report which has since been produced in another and there have been objections about data protection, but it was in the original report. The Chief Minister has written to me. The Minister for Health and Social Services has written to me. The chairman of the Child Protection Committee has written to me about this. “Who are we? Let us have the evidence.” But I would say, we were not resourced to ask every Tom, Dick and Harriet about this. We were not given that information. Allegations were made which are in need of investigation and as proven by other things this does not come cheap, but Members must ask themselves: “Is it necessary? Must we clear the air of this? How do we do it?” The reason for doing this is to lance the boil, as it were; bring it to the public attention, bring it to Members’ attention and let them decide. Because were the sub-panel just to sit with it and say: “Actually people said things to you, what did you do about it?” If Members do not want to deal with it or have a committee I do not have the problem with that, then the duty of the panel and the sub-panel will have been done. If you notice I have never mentioned any person, apart from those who have given us reports, working for us in the system. I have never mentioned any position, anybody else, because I am not carrying out a witch hunt against anybody. That is not what this is about. What this is about is looking at the system, looking at things that have been said, things that have been done, perhaps things that have not been done, somebody looking at it afresh, and there will be some overlap. I was speaking to someone a couple of weeks ago some of the guardianships now are 6-figure sums for children, 6-figure sums. So, what we are talking about here is a sum of money, and I think investment is the wrong term, but let us look at it as something that perhaps we should do so that we can move on but we can move on with the comfort, if that is the right word, that we have done what we need to do. We have looked at the situation we have, there are tremendous pressures

from the Children's Law and the lawyers in private practice have told us that. The public sector as demonstrated, there is an advertisement now. Now, this is a new post so I am not going to deal that and we are talking about some very vulnerable children. I was listening to a report on TV the other night and they were talking about C.A.F.C.A.S.S. (Children and Family Court Advisory Support Service) which is the court representation system in the U.K.; a 15-month waiting list. So, you have young people in limbo while this thing is sorted out. There are all sorts of things. We do not want to go there. That is why coming back, if we come back to where this started, it is low quality intervention, non-stigmatised, helping the Bridge, N.S.P.C.C. That sort of stuff will eliminate in time the attention that the courts have to apply their minds to in some difficult circumstances. There are judgments, there are cases. I am not here to highlight those. That is not the object of this. It is to look at the system, the allegations, the people working for us because we must be fair to them. I was accused of not wanting to go anywhere near this because all the civil servants were my mates and I would not do that because I might upset somebody. The panel have not done it in that way. We have done it because we believe it is the right thing to do. It is up to Members whether they decide to do that. The panel is not looking for anybody's scalp for this. This is not what it is about. It is about having some transparency, somebody looking at these issues and seeing how they find it and that is what it is and in the 18 to 20 weeks we had we could not get into this detail. We just were not resourced to do it and I know what the reaction of the House would have been. At the time we have a robust meeting with some of the people who were waiting for funding and they were blaming Scrutiny for not getting the funds: "You have delayed it again", and this House would say, as they would I am sure: "Scrutiny is delaying the process" if we had not reported on Williamson. I think at the time, and I thank the other Members; Deputy Trevor Pitman, Deputy Southern, and Deputy Le Hérisier, there was some hard work done. We made visits. We made visits to places and met people that the former Minister for Health and Social Services had not met in 8 years. We did a lot of work and I wish to say that the sub-panel did an excellent job in a short period of time. It was intense and it was difficult because it was very emotive when you are in the young offenders at La Moye with the youngsters, discussing the issues. We did the same at Greenfield. So, it was not a case of had a report and somebody told us. We met people working, we met people who were victims of abuse but we kept it low profile. We kept it out of the public arena. We had private sessions for the right reasons; not because we wanted to keep secrets, we respected people's position in this and I am sure somebody could do the same and do an inquiry and respect all those views, all those opinions, all those emotions but would come out with something that gives us some satisfaction to say: "Yes, we were aware of this. We have looked at it. Yes, there is something. Yes, we are going to do something." Or: "It is not as bad as it has been portrayed." So, with that I make the proposal.

**The Deputy Bailiff:**

The proposition is proposed. Is there a seconder? **[Seconded]**

**Deputy P.V.F. Le Claire:**

Sir, may I seek your guidance please? I did not want to interrupt the proposer during his speech, but during the opening part of his speech he did refer to a comment in my report from P.62 in which a part of that was read out and as you ruled, Sir, it was perfectly proper for him to read out from a report that had been tabled and he was not doing anything other than that. However, it was challenged by Senator Perchard as being, I believe, either incorrect or untrue. I would like to, if possible, address that in a speech after lunch when I have had a chance to review my notes and speak to the lawyers that were involved so that I can satisfy Members that the material within my report was indeed factually correct and I am able to do that, but I would rather if possible seek your permission, Sir, for Senator Perchard to either speak immediately, or to clarify immediately exactly what he found untrue about what Senator Breckon read out and also, if necessary, ask Senator Breckon if he read out verbatim what I had written in the report, or whether or not it was his interpretation of what was written in the report. I do think it needs clearing up and I apologise for

seeking your guidance so soon as you are in that Chair because I was always bothering you in your previous one about guidance. I trust you will forgive me on this occasion.

**The Deputy Bailiff:**

Deputy, Senator Perchard will speak if and when he wants to speak. You are entirely able to ask Senator Breckon to clarify exactly what he said in relation to the reference to your report and perhaps he could do that.

**Senator A. Breckon:**

This is the report and proposition of Deputy Le Claire: Family X Placement in the United Kingdom. It is the proposition and attached to it is the report and what I read was what is contained in the first paragraph of that report and I think the contentious part was: "A serious case review has now been instituted in response to allegations of multi-agency failures by the States of Jersey." That was contained in there. I am quite happy to copy this to the Deputy and Members and whoever, but it is P.62 of 2009.

**The Deputy Bailiff:**

Members will be able to look at that over the luncheon adjournment if they wish to. Does any Member wish to speak?

**2.1.1 The Deputy of Trinity:**

Just let me say one thing from the outset, both the Council of Ministers and I take allegations of unprofessional behaviour from officers within any department very seriously. If there were any allegations, and I have yet to hear of them, then I, like the Health Social Security and Housing Scrutiny Panel, demand that they are properly and impartially investigated. For this reason I, like the Members, will I am sure be puzzled as to why my attempts to get information have been continually thwarted by the panel. When I read the proposition from the sub-panel I was extremely concerned and I quote: "Raise some serious allegations of incompetence and misconduct among senior civil servants within the departments." I wrote to the chairman of the panel, as did the Chief Minister in his capacity as chairman of the States Employment Board. The independent chair of the Jersey Child Protection Committee also wrote to the chairman of the panel. We all sought and asked the same thing: "Please give us the evidence. Give me the facts and we will investigate." Nothing. After the second letter, eventually on 20th October 2009 the chairman of the Health Social Services Housing Scrutiny Panel wrote to me stating: "The allegations that were presented to the Scrutiny sub-panel during its review of the co-ordination of services for vulnerable children SR.6/2009 were neither specific nor conclusive." The chairman went on to say: "We do not have hard evidence that failures have occurred with regard to vulnerable children which is why we have not passed on any information to you, or your colleagues." In light of this the chairman gave the following rationale for the Committee of Inquiry. It simply stated, and I quote: "Unprofessional behaviour had occurred which seemed then, as it does now, sufficient cause for proposing a Committee of Inquiry to conduct an investigation." Well, I am sorry, I disagree. If the panel are not going to provide any evidence, how can this Assembly assess the cost benefit of the outcome of this investigation? My concerns regarding the report and proposition go much further. On reviewing the report and proposition I note that although the focus of the accompanying report appears to be on Children's Services its wording in part (a) of the proposition would potentially empower the proposed Committee of Inquiry to conduct a much wider review of the management of the entire Health and Social Services Department, of all other departments, or external bodies providing services to vulnerable children. This could include some provided by Education, other organisations which provide services for children. Such a broad review, even if justified, would require extensive resources, considerable time, and professional expertise. Moreover there is a real potential for unnecessary duplication of work. Let me inform the Assembly what is already happening. The management of Health and Social Services is already being subjected to an

ongoing independent review by Verita. That report was received late last week in draft form by the chair of the Scrutiny Panel, the Deputy Viscount, the States Greffier, and myself. I will make public the findings of that report when it is published in final form, which is likely to be after the Christmas break. I am pleased to have this opportunity to tell Members that I am committed to reforming the management structure of my department where necessary. I am in the process of recruiting a new chief executive officer and will shortly be advertising for a new post of director of the General Hospital. I shall be bringing in a transitional lead director in January 2010 to implement the Williamson proposals and hope to recruit to the substantive new post a director of community and social services during that year. I will also be seeking a new medical director, when the current director retires early in 2010. I am moving my department forward. I am not dwelling on the past. We have to move services on for the good of the patients and for the vulnerable children in our services and in our Island. Having said that, if Members still have doubts as to whether they should support this proposition or not let me reassure you all in this Assembly that all services that support vulnerable children will undergo a full, independent inspection in 2010 as part of the Williamson proposals. I am very pleased to be able to inform Members that this week I have signed a commitment with a Scottish social work inspection agency to engage in bi-annual external independent inspection of all our services. This agency comes highly recommended by independent sources such as the past chair of the Jersey Child Protection Committee, Professor June Thoburn. The Scottish Social Work Inspection Agency has expertise in working with small, remote and island communities. It will conduct inspection investigation of all social work services in all areas including the third sector, such as Bridge and Brighter Futures. Should they become aware of any unprofessional behaviour during their inspection let me assure Members here they are duty-bound to inform me and Members can be assured that I will respond appropriately. My Assistant Minister, Deputy Martin, is currently finalising the work intended to be carried out in 2010 in response to the Williamson Report. Members, I hope, will have heard the Deputy talking about this last week on the radio. We are both grateful to the Scrutiny Panel for their input into this programme of work and also to the colleagues, Ministers from Education, Sport and Culture and Home Affairs who together make up the corporate parents and I would like to say that as the corporate parent, which had not met for many years, we have met a couple of times. Once we have finalised and agreed this work programme I will lodge a report providing further details of these service improvements. As well as announcing the appointment of an independent - and I stress independent - transitional director to oversee the implementation of the Williamson recommendations, the report will outline the developments of a comprehensive children and young person's plan for Jersey that the corporate parent will oversee before lodging for debate in this Assembly in the New Year. I am very concerned that this implementation has already been significantly delayed and it is vital that all key components should move forward as soon as possible. I am particularly anxious to avoid any delay in implementing the senior management restructure of Children's Services. I am keen to ensure that the managers are free to concentrate upon effective service delivery during this period of major change. I would like to stress: be under no illusion that things will change. It is time to move forward, to stop the talking, sniping, innuendos and the scapegoating. This Assembly has approved the money for Williamson to improve our services for children. Please, please, let us get on and do it. Every moment we spend looking back over our shoulders at the past we ignore the vulnerable children that need our help right now and need a service fit for the 21st century. We have done the investigating. In 2008 we had reports by Gerald White, Andrew Williamson, Professor Upex. We have had independent investigations by the General Social Work Council, Howard League for Penal Reform, a report by Professor June Thoburn, the independent chair of the Jersey Child Protection Committee, even the Comptroller and Auditor General has audited the post-Williamson structure. Does this Assembly seriously believe we need another report to tell us what we already know? What we need is to invest in our services for vulnerable children and we need to do it now. This has been a very turbulent time for this department: 4 Ministers, 5 Assistant Ministers in little over 2 years. I ask this Assembly to let me get on with the job I was charged with doing, that is running my

departments. I need this Assembly's support to deliver on a huge agenda of service improvement. What I do not need is another inquiry to tell me what to do, what is required. We have done that. Inquiries do not come cheap. I can assure Members on that. I simply cannot justify spending £200,000-£300,000, which would, I say, be a lower sum, as legal representation, I am sure, would be probably required. How can I justify that when I need to recruit more nurses and social workers? The Minister for Treasury and Resources has stated that, should this proposition be approved, the cost will be met from the revenue cash limits of my departments. I can confirm that there are no surplus funds available in the 2010 cash limits to fund this inquiry and if Members approve this proposition, then I am left with no option but to divert funding away from other approved developments, such as investments in nursing staff levels or the Williamson development in services in Children's Services, and that is something I do not wish to do. It is time, please, for this Assembly to decide what the taxpayers' money is best spent on: looking backwards or moving forward. I am determined to look forward and especially investing in Children's Services for children of all ages. I urge Members to support me in looking forward to support these services and urge Members to reject this proposition.

**The Deputy Bailiff:**

Thank you. I will just take the opportunity of advising Members, in accordance with Standing Order 57, that comments of the Minister for Treasury and Resources in relation to this particular proposition have been presented and the usher has just circulated them. While I am making announcements on matters presented, I also announce that the Minister for Treasury and Resources has presented a report on budget management for the 6-month period to 30th June 2009.

**2.1.2 Deputy D.J. De Sousa:**

It might be time to adjourn. Am I right? No, sorry, I am looking at the clock wrong. Sorry. I am glad to follow the Minister for Health and Social Services and I do know she will do her best and I am sure the House fully backs her in everything that she does. The point of this Committee of Inquiry is because during the time that the sub-panel did their scrutiny there was intimation of things being wrong in the department and that is what needs looking at. Surely if there is an implication that the service is failing, then this department should get behind any inquiry, to make sure that Children's Services are fit for purpose and not putting any child at risk. I know there are a lot of reports that have been done and I am sure that if this gets accepted by the House that the committee would not keep going over the same thing. They would use what they already have and then look at what they do not have. It is very good to know that ongoing reviews will be done from next year. It is very important. What we must do is think about the millions that have been spent on Haut de la Garenne. If we can stop this from happening again, surely it is worth backing this inquiry. I will be voting for this.

**2.1.3 Senator P.F. Routier:**

In any large department, in any organisation, there will always be things that happen to go wrong and it is just a fact of life. From what I have heard from the presentation from the proposer of this proposition, there have been suggestions that things have not been right. Even the previous speaker spoke about there is intimation that something has possibly gone wrong. But I understand from the Minister that a request was made for information from the panel for the evidence to what has gone wrong and nothing has come forward. I have listened to, I think, both very good speeches from the proposer and from the Minister and I have to say that I come down on the side of the Minister in this circumstance because I do believe that I have every faith in her ability to go forward. The thing that I focused on was not focusing on what has gone on in the past. There have been so many inquiries and comments that have been made about the past. I think we should really focus on the future and I urge Members to reject this proposition and to support the Minister to ensure that the available funds that are available which are limited for the department are not wasted on an inquiry and they are used for providing more services.

**The Deputy Bailiff:**

Does any other Member wish to speak?

**Deputy T.M. Pitman:**

I do, but, to be honest with the House, it is probably going to be about 15-20 minutes worth, so I am happy to start and leave off and carry on again.

**Deputy M. Tadier:**

Could I propose the adjournment for lunch?

**The Deputy Bailiff:**

The adjournment is proposed. All Members in favour, please show? All Members against?  
Deputy Pitman.

**2.1.4 Deputy T.M. Pitman:**

In speaking I will really do my best to speak as briefly as possible because I do not want to speak at any length in going over unnecessarily items that Senator Breckon has already talked on and talked on for quite a while, as he obviously felt the need. But I do feel I have to speak. I was part of that panel. In starting, I do have to say that I am very disappointed to have this arriving during the debate and put on our desk - another paltry example of the Council of Ministers and their delivery. It is very disappointing and I do think it is there and been presented at this time possibly just to influence us, and that is a shame. I have to say that whatever the personal political persuasion of the 53 people in this House: the Left, Right, Centre, Greens, whatever we might call ourselves, not one of us ever would genuinely bring something to the House which we thought was not a good use of taxpayers' money. We have heard a few sums bandied about today and this would not be an insignificant sum. I think we all accept that, though I think opinions of the actual amount of money would differ quite greatly, plus I have to get that on record because it does also refer to the comments about the expense, as if that is a reason for not investigating something. I do find that a very flawed argument and quite worrying. The call for an independent Committee of Inquiry is wholly merited, I believe. It is wholly merited in whatever money that it will take. Why? Because in the long term, I think that it would likely save us money. That may be a difficult concept for some to get their heads around but I think it would. It can, without doubt, finally draw a line under something that has festered and caused divide over a couple of years and I think it is still causing a divide now. So I know many staff in Social Services, many staff who have real concerns and will not only welcome the inquiry but are desperate for something like this to happen because they believe that it is essential to finally move their department, just as the Minister has said. Indeed, to clear the air, Senator Breckon has touched upon how some might have believed that the sub-panel would just explore the recommendations of the Williamson Report, further still, how the Senator quickly became aware, as we all did, that the potential for the review to spread out in much wider though related areas would grow and grow. I think this fact is important because to my mind the underlying key fact in calling for this inquiry is the reality, and it is a reality. But in terms of both timescale available - and the Senator has touched on this - and remit issues that arose, you simply could not be examined adequately by a Scrutiny Panel. Criticisms of the sub-panel for not doing what only an independent inquiry can do, to the necessary depth, is both unwarranted and unjust, and I would hope that all Members accept that. I have said I do not want to dwell too much on things that Senator Breckon has already outlaid and I will do my best to stick to that. But we have heard about the deeply troubling background to the family X situation which was thankfully brought to the House by Deputy Le Claire some months ago. We have heard the opinion of the sub-panel's adviser on the need for staff support, training and quality assurance. I think those are, in itself, very, very important issues. We have heard mention of Kathy Bull and the Williamson Report, the difficulty of an insider taking this department forward. Senator Breckon has also touched upon how the sub-panel wish to interview one of the previous Ministers for Health and

Social Services, and, indeed, a previous President, Senator Syvret. I am very disappointed that Senator Syvret is not with us in the Chamber today, for I believe that his voice should have been essential to what is played out over the months ... a couple of years. I believe it would have been central to progress to a time when we can finally put disquiet - whether that is based in rumour or in fact - to bed once and for all. An inquiry, I believe, is the only route that will enable us to do just that. I do not wish to dwell on this aspect any longer than necessary but perhaps an inquiry can succeed here where the panel might be said to have failed but not through any fault of our own, through the diligence, certainly of the chairman, who I have to give credit to because he must have almost slept with the research on this inquiry. I reckon he must have put in 100 hours a week and I really must applaud him for that. He deserves a great deal of credit. Senator Breckon rightly highlighted the dilemma of taking allegations seriously or dismissing them, i.e. in doing nothing. I do not think that doing nothing is an option, if only out of support for the many Health and Social Services workers at the coalface who need the line drawn under this. Wherever we are coming from, I do not think any one of us would disagree with that. There are people out there who need a line drawn under everything that has happened, once and for all. Again, as Senator Breckon has very rightly pointed out, there has to be concern that some who have had allegations, either direct or indirect, made against them, have had no means of having their voices heard, to be absolved of blame or held accountable, whatever the outcome might be. An inquiry can do this, I believe. An inquiry must do this. So, as I say ... as I have said a couple of times, Senator Syvret is not an issue I want to dwell on any longer than is necessary for I believe Senator Breckon has covered the significance of investigating what Senator Syvret has alleged, quite adequately. So, to this regard, I would add only this: Senator Breckon has spoken of allegations of staff and how they have been allowed to leave the department, rather than action being taken, as the Senator describes, sweeping issues under the carpet. The danger, I feel, is for the Assembly simply to disregard all such allegations, due to the manner in which some within the House now view Senator Syvret himself. I think it is a danger that this happens. Many would argue, and possibly argue quite reasonably, that that is a natural occurrence of what has taken place. But thus I would flag up the danger of such a response today, by referring to one case which Senator Syvret himself talked of in this Chamber a number of weeks ago, a case of a member of staff being allowed to leave the Island in that instance, rather than face any investigation. Without going into any detail - and, clearly, we do not want to go into that kind of detail here; we are not a court - as a warning of disregarding this, I can tell the Assembly that that particular case - and I think his words must be on *Hansard* - is probably known to every employee within Social Services. Every member of Social Services I know, knows of that case. Many in other States departments know of the case. If that, in itself, is not worthy of an inquiry to investigate matters, then I am afraid I really do not know what is the public's or the staff's reassurance. I make quite clear again: I have got no issue with the new Minister for Health and Social Services. I fully support her. I know she is absolutely determined to move her department forward. I am also equally sure that, as yet, she does not know everything that goes on in her department or house. Who could? That is not a criticism of her. Again, as I said, I thank Deputy Breckon - Deputy Breckon - he is a Senator now; I must give him credit for that. He has put a lot of work into this, as did we all, and in the best intent and the best interest of trying to see the bigger picture in what was a very, very difficult situation. The request for an independent inquiry, as Senator Breckon has said, is not a witch hunt, far from it. Indeed, whatever happens today, the job of the sub-panel will, indeed, have been done absolutely. I go further than that to say the collective conscience of the sub-panel will likewise be clear. Mine certainly will. I have to be honest with the House here: I was the one pressing throughout for this inquiry because of the disquiet I felt. I am glad my colleagues supported me. Whatever happens, my conscience will be clear. I have done my job to the best I could. I believe the other 3 Members can say likewise. I am afraid to say that if the Assembly does not support the proposition, and I am here disappointed at the response from the Minister for Health and Social Services, within the context of everything I said about fully supporting her ... I have to say that if we do not support this inquiry, I wonder if the job of the House will be done, the job of protecting the interests of the public and for those



people who work in Social Services, people who work, as we know, really, really hard and a lot of them have been through the mill around this. I have been very unhappy with some of the things that have been said in the past: allegations that have been said and allegations of something, which, I think, cannot be allowed to fester, because they will just stay there and this will come back again in weeks, months, years. I have only got about 2 minutes to go, so if the House will bear with me, they can all have their lunch. So allegations of inappropriate action, even rumour, I believe, quite honestly, must be investigated. Talk of Verita, I am afraid, in this context, is a complete and utter red herring. Verita is not in any way whatsoever mandated to investigate matters that might have taken place in 2005, 2006 and 2007, are they? If some Member of the House can point out that I am wrong, I will hold my hands up. But that is my understanding. Again, I must have said it 3 times but I respect the newest Minister for Health and Social Services; I believe her determination to drive her department forward 100 per cent. I believe her good heart in doing that, 100 per cent. However, for the Minister to talk now, in this context, of needing the support of the House, is wholly misplaced. It is confusing 2 different issues. We have been asked to consider something of great importance here by Senator Breckon. It is not an easy matter and I do not think we are the people to carry this forward in any other way than agreeing to implement this inquiry. We are not those experts. We are not judges and juries. We have heard that enough times in this House. I think it is never truer than in this case. This is not a witch hunt. It is not a criticism of the Minister for Health and Social Services. I really do call on the House to put aside any feelings that this is better off buried and any allegations are better just dismissed. It is not a good thing. It is not a good thing in any walk of life. This is so important. Please support Senator Breckon and support the proposition. Thank you.

## **LUNCHEON ADJOURNMENT PROPOSED**

### **The Deputy Bailiff:**

The adjournment is proposed. All those in favour? The States stand adjourned until 2.15 p.m.

## **LUNCHEON ADJOURNMENT**

## **PUBLIC BUSINESS - resumption**

### **The Deputy Bailiff:**

We resume debate on the proposition of the Health, Social Security and Housing Scrutiny Panel on the establishment of the Committee of Inquiry. Does any other Member wish to speak?

### **2.1.5 Deputy R.G. Le Hérisier:**

I have been very, very saddened at the comments of the Council of Ministers. It is a supreme irony of which I was reminded this morning, that had we been looking, for example, at the fate of the finance industry and had there been reports requested or thought desirable, they would have been brought forward in rather ample numbers, as, indeed, they have been. What saddens me most of all about it is if, as Senator Breckon said, this was to go forward, yes, it would not be a truth and reconciliation commission perhaps but it would be a way of clearing the air. Of course - not that we are conniving in trying to spread ill-founded, vague and general rumours and so forth - the position remains that there is accumulated evidence which needs to be examined and tested. The idea was never that we were going to come up with a whole list of specific allegations, for reasons that the chairman of the panel has referred to. But we were arguing we were under enormous pressure as a panel to deal with these allegations and we made it very clear: no, that is not our job; we are not here, as the chairman said, to find people guilty or innocent. We are here to deal with the policy side of the Williamson Report, its adequacy or otherwise. But it is quite clear from the evidence we have heard that there are concerns. It also has to be said, as one of Senator Walker's swan songs, he did promise the House that there would be a major inquiry to sweep-up matters - the

very issue we are looking at today. Sadly, the Council of Ministers' remarks seem to have totally gone past that. If you analyse these remarks - and they list a vast number of inquiries, individuals who have come over - they are all generally partial. They were all partial, they were all brought about to deal with particular issues and particular allegations. The big picture was not pulled together. As Senator Breckon has so acutely outlined, it was never pulled together with Williamson. But in the desperation to get things resolved, everybody thought: "Williamson, that is it; close the matter down. Let us steam ahead." But there was much, much more than that that needed to be done. Furthermore, the panel though given, as I have alluded to, the febrile atmosphere that existed around child abuse, the fact that everybody was finding it very, very difficult to ascertain where the truth lay... While we do not think this Committee of Inquiry would necessarily do that, it would bring some kind of comfort, hopefully, to the witnesses, who would at least feel that, particularly where their cases, for example, have not been able to reach trial - and there has been a lot of comment on that - but they would at least feel that they had put their case forward, they had been listened to by an independent and impartial group or individual, because some of the inquiries that Senator Breckon cited in the U.K. - Laming being a classic one - they have been carried out by individuals of integrity and detachment from the area, in other words, they were not involved directly with Social Services, for example. That is what we were putting forward. But the Council of Ministers have totally chosen to misunderstand that and they have chosen to do what has been the bane of this whole matter of what is right and wrong and how have we dealt with it, rightly or wrongly, this whole issue of child abuse. They have just perpetuated the defensive culture that has dominated so much of this issue. Sadly, and this where they could all do, quite frankly, with a good lesson in small "p" politics from various advisers. I say "small 'p' politics" because that is what this House lacks so often. Sadly, this was a way out. This was a way out and trying, yet again, to put up the barriers. Of course, as Senator Breckon has said, this is not a matter of hounding managers. This is a matter of saying: "Look, there have been over years major, major issues. There have maybe been people in positions for a long, long time. There are people trying their very best to work with inadequate resources and the whole thing needs to be pulled together and looked at." I hope that former Ministers, current Ministers, as has been the case, they do not instantly jump to the defensive. Of course, that was never the intention of the Scrutiny Panel. But the panel was embarrassed that it could not do a good job with the individual allegations that we received. Of course, we were under enormous pressure and we did not think that the Scrutiny structure was built for an almost quasi-judicial inquiry. But this is a way out and I am desperately sad that has been rejected by the Council and by the powers-that-be in the Ministry of Health and Social Services. I would have thought they would have said: "Yes, let us look at how the Children's Services and allied services run. Let us try and learn and let us really, almost therapeutically, put it all out there and show people that we are willing to confront these issues and not to close them down." Because obviously one of the wretched things about this whole issue has been how it has polarised people. Here we are, we are prepared to put forward a vehicle that will hopefully give people a way out and it will bring an end to this constant battling, particularly about this totally elusive matter called the truth. Because, unfortunately, with all the hot air that has been exchanged, with all the sore feelings that have been brought forward, with all the anger, suppressed and the not so suppressed anger that is out there, and with all the feeling of unfairness that a lot of staff feel, how are we confronting that? We are trying once more to block it. We are once more being defensive. Instead, we could have done the magnanimous thing. We could have done the small "p" politically shrewd thing, which is to say: "Yes, we will look in its entirety at the department. We will look at these allegations. We will bring somebody in who is totally unrelated but who is a person of obvious integrity and detachment and we will see whether we can move it forward." That was the challenge the Scrutiny Panel was offering the States and it is desperately sad that we have reverted to this defensive narrow thinking. This view is abroad: we know the answers; we have started the reforms. I have not read one really telling analysis, quite frankly, from the Health Department which says: "This is where we went wrong. This is how we intend to make things better." That is what people do in big organisations when things go wrong and they

want to move things forward and put history behind. They do not put their head in the sand. They do not deny the existence of history. They do not say: “Because Senator X is involved, therefore it is untrue.” They put all these things into the mix and say: “We are going to move forward and try and take a much more open and honest approach and we are prepared to live with the consequences of that report.” Of course, all other stakeholders, hopefully, will buy into that as well. I know from constituents I talk to who come at it from very different angles, people are absolutely tired of the issue. They are tired of the fact we cannot resolve this issue and it drags on and on and on. Here is a way forward. Just a minor footnote: it has been a customary scare tactic when people do not want inquiries to put vast sums of money. Now, okay, we as a panel partly colluded with that. But a lot of these sums, as we have discovered, for example, in the inquiry into the role of the Crown Officers, and no way to minimise the majesty and the importance of the positions being inquired into, but I thought a good A-level politics law student could have basically examined the principles at work in that situation. But, no, we had to go for the overkill approach. That is so evident in the Council of Ministers’ remarks: another overkill approach in order to kill off what I, certainly - because obviously I was on the panel - think is a good idea and it could bring some peace, it could bring some resolution and some possible closure.

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

In a similar vein to the previous speaker, really, but before I start I would like to say that I believe the Minister for Health and Social Services is really making a difference and moving the service forward. I listened very carefully to the Minister and my heart says: “Support the Minister.” But my head says: “I am afraid otherwise.” As I have said before in previous debates, this is not going to go away. Serious accusations have been made and I believe we will have failed in our duty as an Assembly if we fail to investigate them. The Minister wants to move on and I agree with that. But just think, if we were about to build a house, would we build it without first carrying out a survey to ensure the conditions of the ground? Clearly not. We would want to ensure that we were building on good solid foundations and not building on sand or rotten foundation. The way ahead, therefore, is to put this to bed once and for all, carry out the investigation, learn from our mistakes and move forward. I feel we also owe it to the staff who have been accused of misconduct, and to the complainants, who deserve to have their complaints properly and thoroughly investigated. Clearly, if people are found guilty of misconduct then appropriate action must be taken. Justice delayed is justice denied. I have no doubt that any investigation, depending on the terms of reference, will confirm that some parts of the service are totally under-resourced and that in some areas very good staff are prevented from delivering appropriate services by the lack of these resources. It is what I call “the Emperor’s clothing syndrome”. Good plans but nothing to deliver it with. We need to help the staff and we need to help the young people affected by this service. Williamson will go some way in assisting with this. But there is much more to do. I personally feel, and I might be the only one, that the report was okay as far as it went but it was very lightweight. There is much more to do. The investigation may bring some of those things out. But there is no reason why the Minister cannot make a start on introducing Williamson. But it does not go far enough, in my belief. The proposer made a couple of comments about quality and I hope that we will, when looking at the way the service moves ahead, avoid the typical British system of quality management, that is, we wait until things go wrong, then we carry out the investigation. I hope that we will come forward with true and honest quality assurance, where quality is everybody’s responsibility, where success is clearly identified and people aim and strive to achieve it. One other thing I would just like to pick up from the proposal, I may have misheard the proposer when he talked about ... and I wrote it down here: “low-quality intervention”. What I think he meant, or maybe I misheard him, was: “quality intervention at the lowest level possible.” He is nodding his head, thank you. With the comments I have made, as you will have gathered, I will be supporting the proposition.

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

I have got some prepared notes but I just cannot let some of the comments go from the, I think, 3 different people who were on the panel, to where they are coming from on this Committee of Inquiry. I did hope that when Senator Breckon spoke we would get a little bit more tangible evidence than some things that they have heard and things that go back a long time and things that need to be done and people to have their voice. I am very confused and I hope you will answer this one as well. He said we introduced this Children's Law 2002 which came into force in 2005 and it is defective. Health know that has always been defective. At the time they said: "If you are going to introduce this we will need, as the advert quite clearly wrote, legal advisers. It will give much more rights to children, their families and everybody else and they will end up in court." We were ignored and we are where we are. But was it a bad Law? We tried to water-down the U.K. version but we were advised against it by one of the last Solicitor Generals, Stephanie Nicolle. We had the Law. Now, is the Law defective? I would say not. Is this Committee of Inquiry into the Children's Law or us introducing it? I think not. There was a bit of a scuffle about a serious case review. Well, this led to a serious case review. The Minister did not mention it. We know there is a serious case review going on into the family that was brought to this House. Again, totally inappropriate that people will end up in this House but if that is the way we are going to do things in Jersey, that is the way we do things. There is a serious case review going on and it is near completion. The results that are able to be out in public will be out in public before Christmas or very, very early in the New Year. So just put that one to bed. There is no hiding but because of the sensitivity over the 9 years - and I am sure we will find this family has been let down by more than one department in the States - I will be very surprised that that is not the case because we all know that we can and must do better. So I really did not understand where he was coming from then. The Senator also said that we have to look at the advice. Now, when we made comments ... the Council of Ministers made comments and I read the comments and I said: "They are quoting from Senator Breckon's reply." I said: "Ask Senator Breckon if they can put his letter in the appendix" because I do hate selective quoting. Now, Senator Breckon quoted from his adviser expert, Professor Sinclair, this morning. What he did not quote, and I will, it says: "Finally, Mr. Williamson is concerned about the need for external independent scrutiny, more generally, what I would call quality assurance. He assures us that there is particular need for this in an Island community. The public need to be assured that bad practice is not being condoned or covered up by the old boys' network and there may be perceived a need to guard against complacency and resistance of new ideas. For these reasons I suggest the appointment of an agency to review the service on a biannual basis, the use of the agency or individual to provide an independent reviewing officer, a revised whistle-blowing policy, as something which the staff should find supportive." Then he read many of the things ... he even read the first paragraph of the conclusions. But Mr. Sinclair ended in: "In my view, the limitations I refer to above are not a reason for dismissing the Williamson recommendations." "Are not a reason for dismissing." "I cannot see that if these recommendations were implemented in full, they would make other changes that may be necessarily more difficult. If anything, they should make them easier and would reduce the organisational uncertainty that I assume exists. The immediate tasks, as I see them, are therefore to make a speedy decision on these recommendations [meaning Williamson] and identify the areas which are not covered by them." We do not have a problem with that but we must get started, and some of them, i.e. Laming, but even then the Scrutiny Panel came out against straight away supporting the Laming recommendations on social worker cases. So I do not know where he is coming from there. "And sketch out a longer-term programme of analysis and development which lead in time to a world-class child protection system." He goes on to say that he is more commenting on what Williamson did not say than what Williamson did say. Well, there is probably a lot of things that Williamson did not say and Professor Thoburn did not say and things that have been said. Deputy De Sousa said that she is very pleased to hear that we at Health are going to get an external review done in 2010. It will not be cheap but it will be thorough. But at the same time she still thinks that this Committee of Inquiry will go ahead. Senator Breckon also said that they were very disappointed that they could not get a previous Minister for Health and

Social Services to the table. Does he think that the Committee of Inquiry will do this? I really do not know whether it will. But do we call a Committee of Inquiry? Deputy Le Hérissier did not say that it is going to be small money. The amounts of money put in their own proposition were up to £300,000 and it can go as wide as it can. I think we are probably looking at £500,000 and over a couple of years. Many, many of these things we have already dealt with. People have been suspended. They are not in their jobs. I must quote just further facts for the record. This Williamson was rejected on 25th May. It was turned back and it was turned back on a recommendation to Scrutiny by Senator Syvret. Senator Syvret quoted on *Hansard*: “Some Members have suggested that we would be somehow letting the children down if we delay this and choose to do our jobs properly instead and properly scrutinise the issues. It is absolute rubbish to make those kinds of suggestions. Any vulnerable children in the Island now, God knows, after the last couple of years, must be and should be being properly protected and served by the departments and if they are not, shame on them.” Well, shame on them. But I have been there a while and people are trying but they are being held back. We are now, as my Minister said, 15 months after Williamson recommendations. We have done nothing. We are starting. We have now got a bit of money. But we want to all work together. So what will a Committee of Inquiry do? This is my other point. The first part of the proposition tells us to go to ... in accordance with Standing Order 146, which is Committee of Inquiry appointments. Forget Committee of Inquiry appointments. We want to be looking at Committee of Inquiry proceedings, P.147, because even the Senator in his opening remarks stated that: “Many of these areas will be highly, highly sensitive.” And (2): “Proceedings before a Committee of Inquiry shall be held in public unless the committee, in the interests of justice or the public interest, decides that all or any part of the proceedings shall be in private. Where proceedings are held in private only persons who, in the opinion of the Committee of Inquiry, are necessary to conduct those” and so on. The proceedings of a Committee of Inquiry will be as sensitive on this subject, if they go ahead.” So I do not think, where everyone thinks that the staff and the people are going to have their day in court. A day in court is a day in court, a Committee of Inquiry is a Committee of Inquiry. Or are we holding a so-called court because the Scrutiny Panel heard some things, which again, as I say, the Senator makes a nice reference in his letter: “Your colleague, the chair of the J.C.P.C. (Jersey Child Protection Committee)”? Let me assure you, the chair of the J.C.P.C. is no colleague of anyone in Health. He is totally independent. He is totally an outsider and he is a very good fresh pair of eyes that look in at our system and he can see there is a lot wrong with it. He cannot wait for us to get moving with it. So, please do not accuse the independent chair of the J.C.P.C. of being a colleague of the Minister for Health and Social Services or Assistant Minister. So, all this evidence. Deputy Le Hérissier said we should open this with open arms. Well, all the reports, Professor Thoburn, in her appendix, she pleads with us: “I strongly recommend that there is an external inquiry.” Both the Office of Inspection of Education, Children’s Services Skills, Ofsted or the Scottish Executive Social Work Inspection staff, they are responsible for quality-assuring all serious case reports in England, as well as Child Protection Service in local authorities. The Scottish Inspection Agency has a similar role but focuses more particularly on social work services, including those for adults, particularly social work. Now, however they draft this, this is where the Scrutiny Panel want to go. They can go anywhere on the wording of their proposition but they want to look at historic child abuse. Now, I am convinced ... has anybody looked? Now, the reports go back ... I have got here to 2002. The Scottish Inspection Agency go into everywhere. They have been everywhere in Scotland and this is what they do: “The scope of their inspections will include all social work activities from local authorities and other bodies, such as organisations providing social work services in local authorities. During the course of our inspections we will take into account the findings of other inspections and regulatory organisations. We provide an objective, evidence-based assessment of how well people are being served by their social work services, make a constructive contribution towards the future improvement of services provided, help safeguard the interests of people who use the services and help local authorities to develop their own approach to improving services.” They then go back. If they are not satisfied they go back. This is one where they have gone back

over 6 months. They were looking at low morale, lack of staff involvement in quality assurance, uncertainty about neighbourhood structures, staffing and understanding the ownership, findings of previous inspections: "Our previous inspections identified a number of significant weaknesses in authority services for children." Now, this could be Jersey. This could be Williamson. At least read these 6 bullet points: "Children with conflict needs and their families were having difficulties in accessing social work support and short breaks. Planning for transitions was not good enough. Too many looked-after and accommodated children and young people are living in and out of placements, a number of which were some distance from Aberdeen. There were not enough local foster carers and there were too few intensive community support services." This goes back to Senator Breckon: "We want to introduce them when they need them and they are not too far down the line." I totally agree. This is what we want to do. But at every step of the way we are being stopped. It says: "There were too many multi-agency groups that allocated resources to meet children's needs and there was confusion about the difficult roles and responsibilities for all of them." Again, exactly what Williamson and the ex-chair of the J.C.P.C. said about Jersey. "Social workers were not clear what assessment tools they should be using. Planning for some children was unfocused and then drifted. There was not enough rigour and assessment in the impact of parental substance misuse on children and young people." Well, that brings in something else: "There needed to be a more rigorous approach to monitoring and management risk." These are the people that Deputy De Sousa is glad we are getting in next year. I would agree it is probably 6 to 10 years too late. We should have been having this biennially for the last 10 years. But is it a reason not to do it? We are doing it anyway. But what you are being asked today is: do we need a Committee of Inquiry as well? I am afraid I cannot agree. It also says: "The Council developed an action plan that set out the achievements and aspirations in response to the recommendation we made in our report. We agreed the action plan would be directed to reach 23 recommendations but would be structured in a format to address agreed themes of activities." They were a children's service improvement plan, which is what we want to do. We want to get a proper plan for all the children and the people working with children in the voluntary sector and Education and Home Affairs as soon as possible. Criminal justice - we need to work more closely with them. It is keeping children out of care and these are the people who will show us, after we have started to implement Andrew Williamson, the way we go forward. It says: "This is the 26th inspection agent's report on the works of the Social Works Department in Scottish Councils. There are 6 more to come. The reports show that the Scottish Borders Council to be a bit in the top quarter of the Scottish local authorities." Well, would it not be nice if in a couple of years' time somebody was writing that about the social services of Jersey, somebody who was recognised through the whole of the U.K., an agency that has been doing this for many, many years? So, where do we go from here? I am told that Deputy Pitman said today that he was very disappointed as well that the Treasury report has come at the last minute. But I presume that he had read all the minutes from the Council of Ministers, which, on the fourth page in the middle, says: "The Council note that Ministry for Treasury and Resources considers that the costs, should this proposition be approved, should be met from the revenue cash limits of the Health and Social Service Department. The Minister for Health and Social Services has confirmed that there are no surplus funds." I keep hearing in front of me: "Blah blah blah" and: "That is not true." Well, it is true. It is up to the Members here today. What do you not want to do? Do you not want child advocacy? Do not you want more social workers? Do you not want us to implement a children's plan? Do you not want us to work in early intervention with the children? Because that is what it will do. Some monies will have to come out of our budget. I am not pulling at the Deputy's heart strings. I would probably have to dig very deep. **[Laughter]** I am really not going to get involved with this because the Deputy and me ... I have just been accused of shroud waving. I would say that the Deputy sat on the Scrutiny Report and has brought to this House the biggest shroud-waving I have ever heard, not with one piece of substantial evidence and that has been asked for by the Council of Ministers, the independent chair of the Child Protection Agency and the Minister for Health and Social Services. I cannot say how disappointed ... we had this conversation around the table with

officers and said: "Senator Breckon will have protection in the House and I hope he does not do another: 'Let us call them case X, Y or Z' and then go on and tell everybody why this review should take place" because if he has the evidence he could have done it. I am very glad he did not do it. But then that makes me think he probably has not got any evidence. It has got lots of hearsay. I hear everything every day. I hear things about people in this House. Do I ask for an inquiry? Do I believe everything I hear? No. But I am not denying that things have not gone wrong in the past at Social Services or Health or probably, as Senator Routier said, in many other departments. I am not denying that. I can only quote you what Senator Syvret told you, and you all believed him, that there is nobody being let down now in the service because of all that has gone on. We had this argument the other day. People cannot even touch a child in the children's homes without being suspended or to say: "Excuse me, son. You are not going out tonight." This is how far the staff have now had to stand back because the spotlight is on them. Now, will a Committee of Inquiry give them an answer? Will they be called because they are not doing something? I do not think so. So, really, I cannot support this, only for the simple fact that I know that there is going to be just as good a job done by the Scottish Social Work Inspection Agency. They are going to look into everything. If anyone had cared to read their reports, they do not mince their words. They tell you exactly where you are failing, who is failing and why they are failing. We will have that done within the next year. This inquiry will not be done before then. It will cost a lot of money. I do not say that it will not affect me today personally if you decide to spend £500,000 on a Committee of Inquiry. It will affect the people who are in the youth justice system. It will affect the kids who have problems at school and it will affect the children in the Social Services. If you think I am shroud waving, well, we have got the fourth member of the Scrutiny Panel to come up now with some facts and the meat on the bone to tell you why we need this Committee of Inquiry because I think he is about to speak. I have finished now. Thank you.

**Deputy T.M. Pitman:**

Sir, could I ask for a point of clarification from the speaker?

**The Deputy Bailiff:**

Is it a genuine point of clarification?

**Deputy T.M. Pitman:**

From me, always, Sir. It is just I would like to know how far that review is going to go back, the Assistant Minister is talking about. Is it 2005, really 2001 or is just about now?

**Deputy J.A. Martin:**

It is a point of clarification. I think he should be asking that of the proposer. Their proposition does not say how far they want to go back. Probably to the year dot.

**Deputy R.G. Le Hérisier:**

On a point of clarification. The Assistant Minister said the issue of staffing had been dealt with. People had been suspended and dismissed. Could she confirm that? Would she also confirm that in the case of Haringey it had a good report from the National Inspectorate just prior to the Baby P case?

**The Deputy Bailiff:**

The second point is not a point of clarification for the certain speech. Just a point of clarification.

**Deputy J.A. Martin:**

We are not looking at those people. Yes, people have been suspended. I could find out. What the questioner is asking me, are there still people in place that have been there - I do not know how many years - 10 years, 12 years? No, staff have rolled and staff have moved and staff have left. I do not know what the questioner is asking me to clarify. I do not know exactly how many but I do

know people are sort of quite reluctant to work in the service at the moment. That is another thing that the Scottish look into, terms and conditions so we can employ. Thanks for the chance for another speech.

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

I do not like spending money, especially taxpayers' money, but I am very aware that mud sticks and Islanders have long memories. I think the case for the Committee of Inquiry really rests on the necessity for restoring public confidence and a degree of complete transparency in the Health and Social Services Children's Services area. We were, under former Chief Minister Senator Walker, promised a Committee of Inquiry for Haut de la Garenne and provision made. I assume that this allocation still exists. Would those funds not be more appropriately allocated to this review? Of course to answer Deputy Martin, it is my understanding that a Committee of Inquiry can subpoena witnesses.

#### **2.1.9 Senator T.A. Le Sueur:**

I do not know if Deputy Le Hérissier was trying to provoke a response from the Chief Minister or the Council of Ministers. He may think he has done but in fact I was going to speak anyway, although I have to say I really do not know where to begin in trying to comment on this weird and unclear proposition from the Health and Social Security Scrutiny Panel because the thrust of the argument seems to be about a general review of the whole of Social Services but the proposition is talking about allegations concerning misconduct and incompetence within management. Yet Senator Breckon in his opening comments talks about the professionalism of the staff and other people, such a Professor Thoburn, have mentioned the improvements that have been in place. What concerned me as the chairman of the States Employment Board was that I am responsible for the employment of 6,000-odd members of the States organisation. If I am given allegations of incompetence, mismanagement or worse then I have a duty to ensure that those are dealt with and investigated immediately. That is why I certainly wrote to the chairman of the panel asking for substantiation of those allegations because I believe that there is a possible legal liability on me if I do nothing and just ignore the allegations that have been put to me. But I have been frustrated in those activities. It is only today that I hear the source of the allegations. The source of the allegations appears to be some comments from a one time President of Health and Social Services, subsequently its first Minister. I am presumably supposed to justify supporting a Committee of Inquiry on the basis of those so-called allegations. I am reluctant to do so. The Deputy suggests there was some concern about data protection. It has nothing to do with data protection. It has to do with my duties on behalf of the employer. Then the proposer suggests that the sub-panel is not resourced to do the work even though Scrutiny Panels have, I thought, a reasonable annual budget. There seems to be an implication that a Committee of Inquiry does have the resources to do the work. I can assure the proposer that there are no resources to do the work. Those resources, as Deputy Martin rightly says, will come out of the Health and Social Services Department budget; resources which we all agree could be put to better purpose because it was Deputy De Sousa who talked about allegations of activities and there are allegations, as we have just heard, from the absent Senator. There are comments but where is the evidence? Deputy Le Hérissier says the accumulated evidence needs to be tested. Fine, but let him produce to me and produce to Members what that evidence is. He also suggests that Williamson is not the entire solution. I quite agree. I do not think anybody is saying that Williamson is the entire solution. What I think I will say is that Williamson is one of 7 reports mentioned by the Minister including the one about to take place from the Social Work Inspection Agency on the recommendation of the Scrutiny Panel adviser, Professor Sinclair. I wonder just what this proposition could do. Deputy Le Hérissier again says this could bring comfort to the witnesses. How? By having yet another inquiry? We have had 6 or 7 already. I do not think that this is going to be a particular solution nor is it the way out, as he suggests, because I think he is implying that this Committee of Inquiry should have a totally wide-ranging remit to look at the whole of the activities of Social Services from top to bottom, across the



department, across other agencies, around the Island. That in itself is a broad enough task. If you put that task within the context of a formal Committee of Inquiry rather than some sort of internal independent review, the cost is absolutely open-ended. A further concern I have is that being totally unclear of the breadth of this particular Committee of Inquiry, the costs must remain an absolute mystery. I hate committing the States to an expense of which I have at the moment no idea whatsoever. Senator Ferguson asks if there were any funds allocated to the previous commitment given by my predecessor. To the best of my knowledge, no, there are not. If those funds were required they would be brought to the States on a request for additional funding in the same way as the other historic costs were brought to the States. But I would point out to the Senator and Members that that commitment given by Senator Walker was against a very different background when there was considerable disquiet and uncertainty about the magnitude of the supposed events and murders and what else at Haut de la Garenne. I think we have now got the situation in a different perspective and I think again that the expense of a committee of that nature, that money can best be addressed in other ways because Senator Ferguson asks what is the best way of restoring public confidence. I believe the best way of restoring public confidence as well as having an independent and strong chairman of the Child Protection Committee such as we have with Mr. Taylor and we have had with Professor Thoburn, and the inquiry from the Social Work Inspection Agency and others... together with giving Social Services the tools and the resources to get on with the job will demonstrate to the public that things are happening far better than another inquiry will. I close by echoing the very sound words of Deputy Martin, the Assistant Minister, when she asks what will a Committee of Inquiry do. I would extend that and say what will a Committee of Inquiry do that is not already happening or will already be happening because in between what Williamson is recommending, between what Professor Upex is recommending, what Professor Thoburn has recommended and what the Social Work Inspection Agency is recommending, I believe we have a plethora of reports and reviews to fully cover what is already happening. I do not think it is intended to review the Children's Law but given the breadth of this proposition it could probably be extended to do that as well and even the price of fish. But seriously, this is such a poor way of resolving the issue, an expensive way of resolving the issue and above all an unnecessary way of resolving the issue that I do urge Members not to pursue it.

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

It has been said that those who can, do. In the public sector it appears to me that those who cannot or who want to put off making a decision either get a further report or a Committee of Inquiry. I am not suggesting for a moment that that is the motivation behind this particular proposition but I am suggesting that that will be the effect of it to cause further delay in being able to get on with what needs to be done. I hope that the Members of this House see me as a can-do person. I hope that they also see the Minister for Health and Social Services and the Assistant Minister, Deputy Martin, as can-do people. I believe that the whole of the States should be a can-do organisation. We should be identifying problems and then doing something about them. There are undoubtedly many people doing excellent work in the Health Department and in Social Services and in Children's Services but there are also undoubtedly significant problems. But we have had a wheelbarrow full of reports to tell us about them. Now is the time for action not for further reports, not for a further inquiry. That is particularly so in relation to children's issues where there is a very urgent need now to be getting on with things. My role in this area is as part of the corporate parent, Health and Social Services, Education, Sport and Culture and Home Affairs Ministers together with the Chief Probation Officer. Unfortunately that particular group has been inert. We are now getting going again. We are now starting to reactivate ourselves again. Basic problems exist in this area. It is clear from conversations I have had with different agencies working in this area is that there has been a complete failure in the past to agree policy. We have now committed ourselves, the 3 Ministers here, to agree policy. Once we have agreed policy there should be a clear framework in which things can go forward. That must happen. It has not happened in the past. It is not, therefore, surprising to see that different agencies have had competing goals and competing

ideas as to how they should deal with matters. There has been a political vacuum and that vacuum is now going to be filled. I would ask the Members of this House to please support the relevant Ministers and Assistant Minister now in getting things done. Please support us, I would ask, as we seek to take things forward. It is not going to help us to have to spend more time and more energy in relation to a Committee of Inquiry and working with that, probably having to await its results, its conclusions before we can move on and get on with the task in hand. I am frustrated with a whole host of inadequacies in the system in relation to children. I probably am as well placed as almost anybody to understand the difficulties and the problems which I have seen at close quarters in my previous work as magistrate and now still see. I am not going to try your patience or the patience of the Members of this House by rehearsing my particular hobbyhorses. We know where the difficulties are. We know the things which need to be done. We now need to get on and do them. The proposition is very well meaning but it is not going to take us forward in the way that we should go. For that reason I cannot support it.

### **2.1.11 The Deputy of St. Martin:**

I would like to compliment Deputy Martin, the Assistant Minister. I think she gave a very spirited defence of Health. I can understand her frustration because Deputy Martin, like myself and Senator Ferguson, Deputy Le Hérisier were all part of that old Health and Social Services Committee that was in situ when we had the Kathy Bull Report. I think if we are fair and honest with ourselves, we would all go back. I know I was quite a critic at the time and I remember bringing a proposition to try to do something about it. But really the whole thing I think went wrong way back then because it was never addressed, partly because we could not believe that something like that could be happening within Jersey. This is one of the problems we have. We seem to go round with blinkered thinking that these things cannot happen in Jersey because in Jersey we have always got the best of everything. We are world-class at everything we do so how could we possibly have failures. Yet we had something like the Kathy Bull Report that really took us apart and said, look, get real. What we did, I think again was a disaster. Unfortunately not one of the 3 are here at the moment. They probably will not be either. We had this corporate parent. It was a disaster. The 3 Presidents or 3 Ministers who hardly ever spoke yet they were driving it. As a result of that ... I think Kathy Bull was about 2002/2003. It is way back anyway. For 5 or 6 years we have had this malaise and that canker which was within has remained. It has festered and it is still festering now because it seems to be that we have almost ... I do not know whether we have looked at the whole issue from where we should have started 5 or 6 years ago. Until that is looked at, I think there will always be this doubt, this area of concern. Basically we are looking, the opponents of this proposition - and I do not know whether I am an opponent or supporter of it but I have certainly got my doubts about why we should not have it. But the opponents are really looking about the reasons that we should not go forward is because we have got unsubstantiated allegations. That is basically what it is. There are always 3 stages to any allegation: (1) Is this made and you look to see who is making it. Then you investigate whether there is enough evidence to substantiate that allegation. Once you have substantiated that allegation, you then investigate it. My concern has been that no doubt allegations were made when the report first came out from the Health, Social Security and Housing Scrutiny Panel. On 9th September - we have had October, we have had November; almost 3 months now - these allegations were made via Senator Breckon's proposition. Quite rightly, the Minister within a week wrote to Senator Breckon asking can he substantiate some of those allegations. It is unfortunate really that Senator Breckon did not reply. I think it would have been a bit helpful if he had replied. However, that said, there is no reason why the Minister or any Assistant Ministers could not have pursued Senator Breckon either by writing again or doing like some of us do, ask questions in the House. After all he is a chairman of a panel and questions could have been asked.

### **The Deputy of Trinity:**

I did follow it up with a second letter, as did the Chief Minister and the chair of J.C.P.

**The Deputy of St. Martin:**

I was not aware of that. Maybe the Minister could tell us when it was, please?

**The Deputy of Trinity:**

I have not got the date here but I can get the date. As I said in my speech, I have written 2 letters.

**The Deputy of St. Martin:**

I am grateful to the Minister, but the point I am trying to get at is she did not get a reply anyway. The Minister never received a reply and no one in Health got a reply. Certainly I would have pushed it. But the reply came on 20th October.

**The Deputy of Trinity:**

Yes.

**The Deputy of St. Martin:**

Yes. I do not know why the Assistant Minister looks as we have not got there yet. You say the reply was received on 20th October. Again we have got the reply saying something to the effect the allegations were presented, *et cetera*, at the Scrutiny Sub-Panel. So it goes on that they were not. I think this is one of the weaknesses of Senator Breckon's case. It was simply stated unprofessional behaviour, *et cetera*. There were loose allegations made. In fact this is one of the weaknesses again of Senator Breckon's case. I wish there had been much more evidence given as to what those allegations were made. However, I think it is worth bearing in mind that those people who know anything about what is going on at Health and have been knowing what is going on at Health for some time, know that there has been this air of fear around the place. People are afraid to speak up. We know what has been happening to whistle-blowers. We have only got to look. If one looks at the record, as an interest that I have in suspensions, why is it that there are more suspensions in the Health Department than anywhere else? I think there were 15 floating around last year. We are wondering about the cost of how much an investigation or a review is going to be but how much have those suspensions cost and how much are those suspensions still costing today because of people being suspended? Maybe when the other Assistant Minister gets up and speaks, he may well tell us how many are suspended now and how many doctors are suspended at present. Here we are. We have an area of concern and we have allegations which we do not know whether substantiated or not. But how are we going to find out whether those allegations are substantiated without us having a review to sort it out? I think Deputy Green mentioned about something, how can you make something move forward without having basic good foundations? I compliment the Minister for Health and Social Services because she quite rightly says let us look forward. Do not look back. However, how can you go forward without having the confidence that we have not shoved things under the carpet? The only way we are going to get satisfaction, I am afraid to say, is by having another review. Let us hope this is the last of all the reviews we need to have because nowhere ... and I would like to reassure Deputy Martin. I do not think anything Senator Breckon is asking for would in any way dismiss any of the reviews that are had before. I think it is quite clear. These will be complementing those, probably finding if there were absences in any of those reviews. Hopefully this will pick up the whole lot. But until we really feel that we can move forward with confidence that things have not been shoved under the carpet, I cannot see there is much alternative but supporting what Deputy Breckon is asking for.

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

It is not so often that I disagree with my Minister but I believe on this occasion I will be doing so. The Deputy of St. Martin is absolutely right. This issue has to be dealt with head-on. Until it is, I do not believe that we are going to move forward. I would just like to start by saying that I have every respect for the Minister for Health and Social Services. She took on a very, very difficult job at the time and I believe she is doing extremely well in what she is trying to achieve. But I think on this point I believe she is wrong. It will be of no surprise to Members in light of my recent

questions to Deputy Martin who has responsibility for children that I have significant concerns regarding the level and type of offending that is being carried out by children currently in care. Because I have been in correspondence with Deputy Martin in trying to understand the position of the department and the reason they take the actions they do in how they care for these particular people, to date I have not really had any substantive reply as to why. In light of that, I thought how can I assure myself that knowing what I know that those children that I know about are receiving appropriate care? What can I do? I decided I would contact Mr. Taylor of the Jersey Child Protection Committee and arrange to speak to him about it. During that conversation with Mr. Taylor, I mentioned the serious case review. There has been a lot of talk in the Chamber this morning from Ministers going on about evidence. Where is the evidence that this needs to be carried out? Members will be aware that there is a serious case review into family X which indeed will be published in the next few weeks, I understand. But what absolutely threw me when I was speaking with him was that I had assumed for some reason - I do not know why I had assumed this - that there was a serious case review into another family that I know about. Indeed it is the family mentioned in Scrutiny's proposition. I will give you a little bit of background to that and why I am supporting this proposition today. When I started my Community Football Scheme about 4 years' ago I came into contact with a large number of children in my district, principally from what I call the backstreets of St. Helier, and their families. I wanted to get to meet the parents so quite often I would go and meet the parents of these children just so that I had some understanding of their family background and everything else. Through my work on the Community Football Scheme I met the parents of the family mentioned in the proposition. To cut a long story short, certain things happened over a period of time that caused me grave concern. I had contact with Social Services or Children's Services back, I believe, around 2005 expressing concerns about this particular family and a couple of other families that had been brought to my attention. There was email exchanged between myself and a social worker and also I believe the manager of Children's Services at the time around this family of my concerns. In the end, at the end of the day I am just the Deputy of St. Helier No. 3. They are the professionals. When I was told that they had taken certain action with regard to this family, I reluctantly accepted it because I thought: "Who am I?" They are the professionals. They should know what is best for the family even though I questioned what they were doing. But I tried to put it to the back of my mind and life just carried on. At some point in the last year it came to my attention that the father of this family was now in prison. I just want to read a paragraph out of the Scrutiny Report: "Parallel to these concerns is information regarding vulnerable children that has come to light as result of proceedings in the Royal Court, some of which seems to lend weight to the argument in favour of a Committee of Inquiry. A case in point would be [and they quote a case number]. The case concerned a family of 7 children who had been left in the sole care of their father following the death of their mother. The family had been known to the Children's Service since the birth of the eldest child 21 years' ago and during that period there had been a total of 19 referrals to the Children's Service relating to, among other matters, sexual issues, domestic violence and the children being left at home alone. The then Deputy Bailiff made the following remarks: 'The guardian is critical of certain decisions of the Children's Service in the past. She clearly finds it difficult to understand how it was thought appropriate for the children to be left in the sole care of the father following the mother's death notwithstanding the previous allegations of sexual and physical abuse by the father and the report of the psychologist, Ms. Emsley, in 2005 to the effect that the father presented a risk to persons under the age of 18 and should not reside with children.'" I can tell you when I read that, that really upset me because I knew about that family and in a way I felt I had let them down. For that reason alone I think it is important we have this Committee of Inquiry. When I spoke to Mr. Taylor at lunchtime today to talk about children currently in the care of the Children's Service that I believe are not being cared for properly and I needed an avenue to speak to someone about that who could possibly do something about it in light of what I had read in this proposition, and in light of what I knew 3 or 4 years' ago, and in light of the concerns I had brought to the Children's Service and was basically fobbed-off and had data protection flung in my face as a reason not to

discuss anything with me. When I spoke to Mr. Taylor this lunchtime and I asked him about this family and I said to him: "I understand you are doing 2 serious case reviews into families who are in the care of the Children's Service." He said to me: "No, we have only done one." I said: "But that cannot be right. You must be doing a serious case review into this family." He said: "Nobody has asked us to do a serious case review into this family." That is exactly my point. I thought: "I am asking you to do a serious case review into this family that have been so badly let down by the Children's Service." In fact we had a brief discussion around that. I have arranged to meet him next week. But I was absolutely appalled that nobody from the Children's Service ... but then I do not suppose they would, would they? They are not going to pass the evidence across to the chair of the Jersey Child Protection Committee which so blatantly exposes the flaws that have happened in recent years. I was stunned when he told me that. I really was. If that is not enough evidence for this Committee of Inquiry to be carried out, I do not know what is. If that is not evidence, what is it? Somebody please tell me. In my view it is evidence. The Minister spoke previously about the number of reports that had been carried out but I do not believe that there has been a single report into the Children's Service. Not a single report and it is a long time coming. I would appeal to Members. I know there will be a lot of Members here who have probably already made up their minds and are probably thinking they are not going to support this, possibly because of the money that it is going cost. I feel that they have got to support it. Terrible, terrible injustices have been done to a number of children and that is only the ones that I know about. There are probably lots more. All I am going to finish by saying is that the concerns I currently have about the children in care and the way their cases are being handled, I will go and discuss with the chair of the Jersey Child Protection Committee because that is the only avenue left open to me.

**Senator J.L. Perchard:**

Sir, on a point of order can I ask the previous speaker who spoke beautifully and very emotionally on this subject, who she thinks makes the decision to conduct a serious case review and who decides that one needs to be conducted, if it is not the Jersey Child Protection Committee and the chair of that committee?

**Deputy J.A. Hilton:**

I do not think I am qualified to answer that question. I just assumed that someone who had full knowledge of the case would have made a complaint. In light of what I have read in the proposition, I believed that a serious case review should take place. I have indicated to the chair of the Jersey Child Protection Committee that he should look at it and he has agreed to do so.

**2.1.13 Deputy P.V.F. Le Claire:**

My heart really goes out this afternoon to Deputy Hilton because I was in a similar position recently in the family X proposition when I found myself feeling like I had been somehow embroiled in a political responsibility that had ended up with children being sexually abused to the most horrific extent, ongoing after years. I do not know now whether it is worth me trying to convince Members. I think I would detract from the previous speech in trying to say some of the things I was going to say. I recently asked questions in the Assembly, following up the X children case, about these other cases that were coming before the courts. I did not expect to get embroiled this afternoon again in these instances. The standard line is do we really need another report to tell us what we know? That is the issue, is it not? No, we do not need another report to tell us what we know. We need a report to tell us what we do not know and that is what this proposition is saying. Let us put some things in context. It is calling for a Committee of Inquiry into the management of the Health and Social Services Department in relation to actions and the management with vulnerable children. Then, unlike as has been suggested in what really has been some classic if not vintage posturing by the establishment through its Ministries, it goes into making us all believe that we are going to do the taxpayer a favour by saving them some money in avoiding this inquiry when in actual fact it is penny wise, pound stupid once again. We have had circulated the reports from

the Minister for Treasury and Resources saying it is going to come out of the budget of the Health Department so we are having to spring to our feet and tell everybody that we really believe the Minister for Health and Social Services is doing a good job and her Assistant Ministers are doing good jobs. We do believe that but why should we be having to say that again when in reality part b(ii) of the proposition says that the terms of reference, if approved, would come back to the States Assembly for approval. Those can be as wide or as narrowly defined as the States Assembly agree. Does anybody really believe that if we have got children dying in the streets tomorrow that we are not going to give the Health and Social Services Department another £300,000 or another £400,000 or another £500,000 that they need? This is a priority. Clearing up the good name of Jersey which has been tarnished in many respects by a handful of people. It is our responsibility to spend this money to do that job of work. Until it is done, the types of debates that we have been in, this type of debate that we are in right now and this unease and, quite frankly, dirty atmosphere that we are living in in Jersey, ill at ease with ourselves among ourselves from the political class down to the working class, it has got to get straightened out. What are the costs of a Committee of Inquiry? £300,000, £400,000, £500,000? The costs of sending family X to the U.K. per annum for the 3 years that they have got to go, £750,000 a year - £3.5 million. How much was it until we got them there that we had spent? How much more will it be when they come back with their lawyers in the years to come and sue the States of Jersey for damages? Is it because we are scared that a Committee of Inquiry will draw up evidence? It was interesting to listen to the Chief Minister who spoke about the fact that he felt that he had somehow - and I wrote the words down - "a legal liability upon me if I do nothing." Pretty much so I would say. If he does nothing and if we do nothing and I think if those people in charge decide not to undertake this review and find the money for it then I do think in years to come they do have a personal legal liability to answer to. Senator Perchard, who I respect as a politician, got into responding to Senator Breckon's opening speech in which he read out part of my P.62 proposition which highlighted the 9 years for the children to be taken into care and the fact that a serious case review had been undertaken. It was not about whether or not there had been abuse. It was not about whether or not they needed the £750,000 worth of care every year for the next 3 years. It was not about any of that. It was not about the Treasury finding a bit of money and then me having to come back again with another proposition to ensure that it was going to be spent on that and it was not just going to be for the one year. All of those shenanigans that went on. No, cast aspersion upon the whole wretched thing, the whole report because of the fact that Senator Perchard is hung about who instigated the serious case review and stands up at the end of Deputy Hilton's speech and makes the same wretched point. It is absolutely immaterial in anyone's sense of what is important and sense of priorities. What is important is there is a serious case review. The lawyers for the children wrote to the Law Officers on 1st September 2008. I have spoken to the lawyers this morning and over lunchtime and I have got correspondence from them. An internal investigation was requested to the Children's Services at the time. No investigation was instituted. On 7th January having received the guardian's report - the guardian is the person that has to fearlessly defend the rights of the child - a request was made to the Royal Court to permit Professor Thoburn to have sight of that. An objection was made on behalf of the Minister, withholding that information. So the lawyers had to write to the J.C.P.C. themselves to have the serious case review undertaken. The J.C.P.C. has subsequently confirmed in writing that it was in fact the lawyers of the children. Not the Minister or his officer at the time that was operating as the Minister in his absence that is now no longer there. I will not mention his name. No serious case review, even though it was requested of Children's Services, was instigated in that instance which is evidence. We know about it because we are paying for it now. We know that is evidence. We know that was the case. Not only did they not want it, they tried to stop it being undertaken in court. Now the Minister stands up and says: "No, no, no, it was me, I did it." Whatever he did do, I am not aware from the correspondence and the conversations I have had that any of that was effectual because certainly in writing from what I have seen and what I have in my possession it certainly was not his intervention even though he may have wished it to have been. I do not know what he was doing and they do not know what he was doing but the J.C.P.C. and the

lawyers concur and the guardian concurs it was the sole intervention of the lawyers. Maybe we need some intervention. Would it not be great if every vulnerable child in Jersey had somebody like Deputy Hilton to look after them? But she cannot be everywhere for everyone all the time. She has certainly been there in spades and she is there in spades today to protect these vulnerable children and possibly future vulnerable children. She is going to make an approach to the J.C.P.C. and she is not qualified, as she says. More qualified than me. I am certainly not qualified to understand how it is done. But we certainly need to put in place mechanisms of how it is done. Unless we have a Committee of Inquiry then it is going to be the welfare of children in the round, away from the courts, is going to be left to people such as myself and Deputy Hilton. I think Deputy Hilton has done and will do a great job. I have managed to fumble my way through and do a half decent job for the lawyers in this one instance but we certainly cannot do it all the time. A one-off Committee of Inquiry into the management and the processes and the mechanisms of protecting our children will draw that out. If during any public inquiry it is found that criminal actions have taken place then proceedings can be taken against them. If there is found to be cases of criminal action. I do not believe there have been cases of criminal action. There may be some civil liability. I am sorry but I do contest the position put across by the Minister for Health and Social Services on this issue. She says she refuted the allegation that there had been incompetence. She then went on to say “and misconduct”. I could say probably not misconduct but certainly incompetence. But that is even going too far. That is even letting them off too lightly because given what I have just heard today from Deputy Hilton and reconfirming what I have heard from the previous case this afternoon with the lawyers, it is not incompetence. It is deliberate. It is deliberating keeping it out. I am glad that Senator Perchard raised this because I certainly would not have had these papers with me today had it not been for that. Re-reading the issues that were at hand in P.62, we need guardians to look after the children. The guardian in the case of *Re S and W (Care Proceedings) [2007]*. This is on page 7 of my P.62. It was stated: “The guardian is appointed by the court as the children’s representative and the local authority should respect and facilitate the guardian’s duties fearlessly to protect the children against local authority incompetence and maladministration, as well as poor social work practice.” But they obstructed the guardians’ request to have that evidence put across, that group of people, that organisation that we want a Committee of Inquiry for. Moreover, it went on to say: “If the watchword of the family division is indeed openness, and it is and must be, then documents must be made openly available in crucial meetings at which a family’s future is being decided.” Now we have lots of families’ futures to decide upon. But this community of Jersey as a family will never be united again until we throw open wide the cupboards and let the light inside and straighten this out once and for all. It is a £300,000, it is a £400,000, it is a £500,000 price tag but what value is the community? It is £750,000 a year to keep one year for these 3 children. One year, £750,000. I promise and I pledge to the Minister for Health and Social Services and the Assistant Ministers if they run out of money because of this review, I will do everything I can and encourage all of my fellow Members to get them the money they need to conduct their work. It is laughable to think that they will not get it. What is happening here is we are seeing politics played at its very worst. My heart goes out to Deputy Hilton. I have never heard a better speech in this Assembly. I think it was quite emotional and I have been there myself. It is just a shame that she has been left in that position and staggered to find, as I was when she spoke, that that second case review which I thought was underway is not underway. I have been told by the lawyers for family X, the serious case review occurs on Friday. He is submitting his information on Friday for family X. This has not gone. This is not in the past. I ask Members to please put aside their political alliances for this proposition. I understand that in normal terms their positions and their friendships may depend upon them but I would ask them all to be individual and independent politicians and vote in favour of this today because it will bring us all much closer together. It will cost money.

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

We have heard many genuine concerns being expressed about the most vulnerable in our society and certain cases that are known to individuals within this Assembly. I would like to start by asking the Assembly 3 questions. The first is do we want to support the most vulnerable in our society? I believe the answer unanimously is a massive yes. Can we do anything to help? Again the answer I believe would be a unanimous yes. Will trying to turn back the clock help? I personally believe the answer is no. As one of the corporate parents I would like to echo some of the words of other Ministers that are part of that parental group. I do not criticise at all the Scrutiny Panel's work and their report on this matter. I can only question the thinking behind their proposal. I do not believe that it will help deal with the matters that we know of and indeed be the best use of the resources available to us, even if we were able to access additional funds. We need to move on. We need to make decisions. We cannot continue to focus on the past. We now have in place the Jersey Child Protection Committee which is an independent body tasked with overseeing services provided. We have just heard today from the Minister for Health and Social Services to say that the Scottish Work Inspection Agency has now been contracted to inspect all community social services every other year. Scrutiny also has shown that it has a part to play and will be able to consider new management structures to be implemented by the Minister for Health and Social Services. There will also be the ability to monitor the implementation of the Williamson plan over the coming months as action is taken to address the issues identified by both Williamson and indeed the Scrutiny Panel and action we must take. The lack of funding has been addressed by this Assembly in part. Major improvements can be made to the provision of the service to support these young people. As I said before, now is the time to look forward not back. We need to care for those in our care now. These are the individuals we can help. The key priority is the development of a children's plan if we are to address all the issues raised by the panel in their report. This provides the structure that we can ensure that the right care is provided to all those vulnerable. Now is the time to move on and put all efforts into providing support for the most vulnerable in our society rather than continuing to look for people to blame. I will not be supporting this proposition.

**2.1.15 Deputy A.E. Jeune:**

Sir, could I ask possibly first for a point of clarity? I do not know whether it should be from yourself or from the Solicitor General acting as the Attorney General Designate. Could I ask, do we know whether the historic child abuse inquiry is about to be closed? I know there was some hope at one time that we would have had closure on it by now but if I could have some advice on that I would be grateful.

**The Attorney General Designate:**

Yes, I think, and I am sure the Deputy would understand, I really should not make any comment at the moment about any cases that may be in the offing or that are going on at the moment. There are still matters under consideration and I cannot at this point give an indication as to when that consideration will be concluded.

**Deputy A.E. Jeune:**

I thank the Attorney General Designate for that. I am really having problems with deciding which way I will vote on this proposition. It really is like being on a swing. I would like some more clarity. Like Senator Ferguson, I do not wish to squander taxpayers' money. Senator Breckon gave an excellent speech but I rather felt it was the case of no surprises. He spoke of the Laming Report into Victoria Climbié, particularly of accountability. That is something I believe the States of Jersey really does need to get to understand and get a handle on. As other Members have said and I will say again, Jersey appears to be a master of getting reports which rather gather dust. We have allegations but no evidence. We probably have people who have been falsely accused. Will this Committee of Inquiry put closure for all the digging up of Haut de la Garenne and so on? The report of the Scrutiny Panel's adviser raises questions. I would like the Senator to advise in his summing up how does he view the Williamson funding? Should we still be going forward with



this? Similarly, if anybody else from the Council of Ministers or the Health and Social Services Department is to speak, I would like to know if the review that the Minister for Health and Social Services will be doing next year is not just a matter of good governance in fact and should be done regardless. Deputy Hilton's speech really has rocked my swing rather severely but of real concern is that she said: "But they would not, would they?" This is very, very sad and a very serious issue. I am sorry that a Member of this Assembly feels this way but I expect she is not alone. I agree we have to move forward but if there are any bad apples in the barrel then they must be removed. I will continue to listen to others who are going to speak and I will then make up my mind.

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

I am pleased to follow on from my colleague in St. Brelade. We were asked a moment ago by the Minister for Education, Sport and Culture -the Deputy of St. Ouen - 3 questions. There are 2 that I would like to focus on. The first one was do we want to support the most vulnerable in our society. Clearly the answer must be yes. But it seems there is a mixed message going on here that the answer is a conditional yes but not at any cost. I am sure we would support this review if it were free. We might support it if it was for £100,000, if it was £200,000 maybe less of us. Really I think too much is being made of this figure. If something is worth doing it is worth doing full stop. If that has cost implications then that must also be borne out. This whole idea about turning back the clock and not looking to the past, looking to the future. We had a very passionate speech from the Deputy of St. Ouen. Likewise we had a very passionate speech from Deputy Hilton. The difference was I think we all agree Deputy Hilton's speech was an excellent one. The reason it was better was because it came from the heart. She had the courage of her convictions. I would venture to say that that of the Deputy of St. Ouen's was simply what he had to say. The reason being that while we cannot turn the clock back, of course not in any kind of sense of a time machine... What we must do is always learn from the past. There are many of us here today wearing poppies. There are some of us wearing 2 poppies, a red one and a white one. I think we all are aware of the maxim that goes with these times: "Lest we forget." Indeed there is good reason to look back into the past. Those of us who have studied history will know that it is not a dead subject because in fact we can always learn from the past. We must look back. The reason we must do that is so that we can learn for the future. That is why we have a red poppy to remember and we have a white poppy for hope for the future of a better tomorrow. I also believe that the Chief Minister mentioned that there is a need to restore public confidence. I think we also all agree on that issue. This is in fact why I will be supporting this proposition. I think this is the way to restore public confidence. I think rightly or wrongly there will always be allegations of cover-ups. We know that there are bad apples, as Deputy Jeune alluded to. Not just in Jersey, anywhere. This is human nature but those bad apples must be weeded out so that they do not infect the rest of the barrel. Really this is the way to do it. The review that is going on at the moment with Verita, for example, is very limited in its scope. It does not look at the same areas. As Senator Ferguson has told us, it does not have the power to subpoena. Its remit is more limited and its terms of reference will be different. This proposition by the Scrutiny Panel is much broader and can look at things holistically, which they must do. I have had contact... and I know there are so many issues with the Health Service. I also would like to reiterate that we are all behind the Minister for Health and Social Services. There are issues and I know I have spoken to nurses quite a lot, and that they certainly are very supportive of what the Minister for Health and Social Services is trying to do. We know it is not an easy issue, and an easy job, and there are issues there to be dealt with. So the staff I believe, generally, and certainly all States Members, are behind her. But nonetheless, it is not necessarily with the Minister herself that we have met, it is really with the various problems within the system, and I think it is quite widely acknowledged. I know from speaking to Senator Ferguson, who has some experience in these things, that for example, there are far too many layers of management at the hospital. There is not really a whistle-blowing technique in the Health Service, or perhaps in any of the departments really. These issues are really leading to, to some extent, the culture of fear in the hospital, and we know that there are serious issues. I will read a few comments out that I have been

forwarded by constituents in this debate, not necessarily from my Parish, but from the Island. They simply say that, for example, one couple had to move to Canada after 7 years nursing in the Island because they are better off. They go on to say: "When is Jersey going to wake up and realise that being a pretty island is not enough for people?" They conclude by saying that the conditions in Jersey are not what they should be, they can get better conditions in Canada, and they have every sympathy for their ex-colleagues in Jersey because they feel valued now and they do not in Jersey. Now I know these are issues that are already being addressed to a certain extent by the department, but these are all issues that are interlinked, and if staff at the coalface and on the wards are not happy, this does have an implication with the welfare of children, and we know that is a big area at the moment. So we do have to look at this holistically. This report, this review, I believe, would do that. We have had people standing up and saying that allegations have been made that have not been substantiated, and that may well be the case, but that is exactly why we need this review: in order to look at those claims so that they may either be rejected or that action may be taken. If you ask the nurses and the people who work in the hospital and in the service, they would tell you they want Members to support this proposition, I believe. We know, as Deputy Jeune said, it only takes a couple of people within the system to be able to keep things and to cover up. I believe that the Verita review, as I have said, is limited. It will not be able to look at everything. We know that historically, in Jersey we can learn from the past, we only need to look at the case of the beast of Jersey, where because of the incestuous nature, when it came to giving his fingerprints into the police, he did not have to give his fingerprints because he knew a member of the Honorary Police, and he was allowed to roam free for the best part of a decade, when he could have been caught. That is because we did not want any ... there was a tendency to cover things up, nobody wanted to have proper scrutiny. I suspect with certain Members in here, it is that they are worried what the review will turn up. Of course, we know that there will be uncomfortable things from any review, but that is not a reason not to vote for it. I am conscious that Members are getting tired, and I do not want to detract from the very good speech we had earlier from Deputy Hilton, so I will simply say - to finish - these 2 things. First of all, what is the point of Scrutiny if we are not going to listen to the findings of Scrutiny Panels? These are individuals who work together on an evidence basis, who get witnesses in and who can ask tough questions. I do not believe that any Scrutiny Panel presents a review, a report or a proposition lightly. I think that needs to be listened to if we are to have due respect for Scrutiny. Lastly, if we can have a proposition on which Deputy Southern, Deputies Le Hérisier and Hilton, and Senator Ferguson all agree, then certainly we need to stand up and listen to these experienced States Members. On this basis, the review and the proposition will have my backing.

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

May I ask for what I think is a point of clarification from the previous speaker? He referred to someone knowing an Honorary Police Officer, I believe, and then did not have his fingerprints taken. Can you just clarify if that is what he said, because my understanding is that the Honorary Police do not take fingerprints?

**Deputy M. Tadier:**

I can only go from what I have been told - anecdotal evidence. I know that whoever it was that took the fingerprints, or who failed to take the fingerprints of the beast of Jersey at the time, would have been whoever it was. I was told that it was an Honorary Police Officer. But the point remains, and first of all, this is not an attack on the Honorary Service. It is simply, I gave that example to elucidate the fact that there are bad apples and that people do tend to cover things up, and that things do not always come out. In clarification, I am simply speaking from stories that I have been told. If it was not an Honorary Police, if it was a States of Jersey Police person, then I am willing to retract that, but I am simply going from the stories I have been told from friends and family.

### **The Deputy Bailiff:**

The Assembly will be gratified to hear it is not an attack on the Honorary Police. Deputy Southern.

#### **2.1.17 Deputy G.P. Southern:**

Perhaps I had better start on a light note, because I am going to get very serious in a few minutes. It is a unique day for me again, to be found on the side of 11 Constables and on the same day to be arguing with my ex-sidekick, Deputy Martin, who used keep me on the straight and narrow on many a Scrutiny Panel and whose advice I have always deeply valued. However, I am going to argue against her today. She argued very well, in fact, I would say - and I will say - the best performance by an Assistant Minister I have yet to see, and here, what a pity, some of it was aimed at me. But having praised her, I will be arguing that I think she has got the wrong end of the stick here, and that in other circumstances, were she not Assistant Minister, she would be right next to me saying we must have a Committee of Inquiry, and we must have it now, and we must do it properly, and we must clear this up. We have been asked several times today to produce the evidence, and I will attempt to do that very carefully, and I will say why I believe we need to be careful in this particular circumstance. But also, we have been accused, as a panel, of asking for another review, so I want to start with our terms of reference, when we entered in this, and point out the timescale in which we were operating. We were under intense pressure to review Williamson and its costings and get it back here as soon as possible. We worked extremely hard, we bust a gut, to do that, and we succeeded. We could not, had we been sidetracked into investigating all the allegations that came our way, into pretending we were a Committee of Inquiry, we would have been still here in 2 years' time. I was also amazed by the Chief Minister when he said: "Scrutiny has got plenty of money." Hang on, hang on, I am about to start a 5 month - 6 month perhaps - investigation again, into income support - oh dear - and we are going to spend something like £35,000. That is the most I have ever spent as a Scrutiny chairman, nowhere near the amount required to do an investigation like this, requiring some sort of legal expertise. Let us not pretend that somehow we could have done a job on this and got this thing done, as it were, overnight. But listen to our terms of reference, and it was titled the Review of the Co-ordination of Services for Vulnerable Children: "(1) To review the structures of governance and accountability within Jersey's proposed child protection services; (2) To assess the role of voluntary agencies in the provision of services for vulnerable children; (3) To assess whether the recommendations of Andrew Williamson's *An Inquiry into Child Protection in Jersey* reflect the best modern practice and are suitable for a small jurisdiction; (4) To review the phasing and finance of the implementation of Andrew Williamson's recommendations; (5) To assess the importance of compliance with Lord Laming's recommendations for the delivery of service to vulnerable children; (6) To consider any lessons learnt from what is effectively the Kathy Bull report and its implementation; (7) and the relevance of the Jersey review from the Howard League for Penal Reform." We did that in the order of 14 weeks, and we did it, and by God, I think we did a thorough review, because what we do as we turn the page, we find our key findings. I will not list them all; why not - please not? Because the key findings stretch to 32 points, each one detailed, each one accurate, and they are accompanied by the recommendations. The recommendations stretch to 38 points, things that ought to be done. The first, and it is important that it was the first recommendation, because it arose out of the catchall that we always put on Scrutiny: "To consider any other relevant matters that may arise during the course of the review." The matters that arose were these allegations of unprofessional and misconduct. The first is to establish a Committee of Inquiry: "To agree that a Committee of Inquiry be established in accordance with Standing Order 146, to inquire into a definite matter of public importance, namely the actions and effectiveness of the management at Health and Social Services and other services available to vulnerable children. To investigate allegations of misconduct and incompetence within the management of Health and Social Services and other relevant services." This is a serious matter, it is not one we could deal with like that, it is not one we had the remit or the capacity to deal with, but one which we felt was extremely important. It was so important we put it as recommendation 1. Why did we put it at

recommendation 1? Because what we were hearing, and Deputy Breckon mentioned this in his introduction, was that time and time again, things go wrong, people are unprofessional, there has been misconduct. What happens is people get quietly removed, they get encouraged towards the door, nothing more is said, and serious issues are ignored. What we were saying, we were so concerned we really should have a Committee of Inquiry in order to sort these sort of issues out, to wipe the slate and have, in particular, the management and the structure of the Children's Service able to go on from that *tabula rasa* and forge the future without bits of stuff hanging on from the past, and I think that is absolutely vital. Professor Thoburn and Williamson both said to us at various stages: "You do not want to go on into a new structure and a fresh start with your old management with unresolved issues; that would be fatal." The old management got us where we are. They may or may not be to blame for that, but we do not want them going forward with stuff hanging over their heads; not a way to start; make a fresh start. This was part of that cleanup, of making a fresh start. In answer to, in response, incidentally, to Deputy Jeune, these issues that we are talking about do not concern Haut de la Garenne or the historic abuse. We are not talking about going way back there, we are talking about events that took place much more recently, but serious events. We questioned as to why Deputy Breckon has not given ... Senator Breckon. Yes, I keep forgetting. He finally got promoted, he got through the glass ceiling - I will not say what the glass ceiling is. Okay. One of the recommendations we made, a key finding particular - why he is so careful is: "Robust whistle-blowing and advocacy procedures are vital to the safe and efficient operation of the Children's Service", and it is accompanied by recommendation 17, halfway down the list: "That a robust independent and non-threatening whistle-blowing process is put into place for both staff and clients." Why do I refer to that? Because, obviously, and I will quote from evidence that we received in confidence, and is not public, but I think, carefully, I can reveal the evidence without revealing the person, although he or she does reveal enough about the sort of work he or she does, to give herself away, and I do not believe, certainly he or she did not have confidence that a whistle-blowing process was in place and that she was safe, having spoken to us about her concerns, from effectively, getting the sack. A robust whistle-blowing policy is not in place, it is one of our recommendations. The Minister, in her response, says that she takes these issues very seriously: "A new States policy for whistle-blowing has been developed and implemented by the States Human Resources Department which applies to all public sector staff and services. The development of appropriate advocacy services and procedures for children is in the proposal for the Williamson implementation plan." However, that whistle-blowing service has not been tested. We have not seen evidence that whistle-blowing has taken place, action has been taken and that person has retained their anonymity. Under the revised States policy on reporting serious concerns, this is why it is so difficult to come out with the evidence and a hard case. Under 4.2 it says: "It is recognised that employees may want to raise a concern in confidence under this policy without their identity being disclosed. However, the investigation process may reveal the source of information and a statement by the employer may be required as part of the evidence. If the outcome of the investigation is that an external hearing takes place, for example in the courts, the States may be required to release information about the source of the allegation, which means that anonymity cannot be guaranteed. It is therefore not possible for an employee to raise a concern without their identity being disclosed, although the timing of this will be discussed with the individual." Why have we been so careful about this evidence? For that reason, and that reason alone. I will just briefly outline one of the concerns that was brought to us by this States employee. In the evidence we have got here, it says: "Now, if we go back to 2006, things were already beginning to be problematic in Social Services, in that social workers were leaving, social workers were going off sick with stress, and we were getting a high level of cases held in duty, unallocated. At one point there were 80 cases held in duty, that is not safe practice." I asked this person: "Held in duty"? That means they have not got an allocated social worker, that they are on a white board, they are prioritised, but you see, if we have got that number, 80, the whole continuum of seriousness, you cannot assume that there is a problem in there. There was, and there has been. It is proven by some of the cases that have come up. Further on, later on, he says, she says, in

response to me: “Are you saying that your impression was that referrals were made, but there was no action was taken?” The answer comes: “Not acted upon, no, but we know that.” In fact at that time, a letter went around from the Children’s Service to the key agencies, saying that due to shortage of staff, they would be prioritising referrals and taking the most serious first. From my point of view this is like the fire brigade saying that they are only going to fight big fires. But as you know, a small fire can become a big one. The work of Professor Thoburn must be referred to, in a way, because she is the chair of the Jersey Child Protection Committee and I have tremendous respect for her. I think we are very fortunate to have her and what she has done already is incredible. Her report, I think, really needs taking notice of, because what she is saying, we are not doing preventative work, therefore things are getting really bad by the time they are coming up. We are fire-fighting, really. She goes on: “It is dangerous, and it is risky, and it is not good practice.” That was a description of what was going on in 2006 and of evidence of risky, bad practice. I turn now to evidence from Dr. Miriam Silva in a case that has already been referred to. She says about herself: “In my N.H.S. (National Health Service) role, I am currently the service manager for the C.A.M.H.S. (Children and Adolescent Mental Health Services) mental health team for looked after and adopted children in Northamptonshire, a population 7 times the size of Jersey, with 7 times the number of looked after children. I am also multi-agency lead for our innovative, intensive, attachment intervention scheme, which works therapeutically with children who are struggling to form healthy relationships in their new placements. I offer consultation to social workers and managers about placement planning, care plans, and the appropriateness of therapeutic interventions. I provide training to professionals and foster and adoptive carers about working with children with poor early care and disrupted attachments. I am the national chair of the network for clinical psychologists working with looked after and adopted children, that is I co-ordinate the network of over 220 psychologists who specialise in this field of work.” She goes on to say, in this particular case, what she was asked to do: “I was asked to provide an independent assessment of the family and the needs of these children. I completed this with the assistance of a consultant clinical psychologist who manages the child psychology service for Suffolk. As part of my conclusions, I recommended that these children were placed in specialist residential therapeutic placements in the U.K. mainland, due to the complexity of their needs, the prolonged exposure they had to multiple sources of abuse, and the importance of investing in intensive interventions before the window of opportunity is lost and we are left with managing extremely damaged and vulnerable adults. I believe such placements are necessary, due to the long time scale required for developing sufficiently skilled and experienced local services, when the children need their recovery to start as soon as possible.” She goes on to say: “The window of opportunity for these children to recover from their abuse is narrow, and each day that is lost diminishes the prospects of the children being successfully treated. The ages of the children mean that receiving the correct therapeutic treatment now is of extreme urgency. Without such successful treatment, the Island faces the prospect of these children continuing into adulthood as severely damaged individuals with potential risks to themselves and to others.” That is a very serious and heavyweight recommendation. But she goes on in her report - and please pay attention to this - to say: “It would appear that political and financial influences have been more powerful than the consensus of professional opinion of what would be best for these children. Everyone appears to be trying to make do with Plan B, and it is being increasingly idealised, compromised, and was never the preferred choice except of politicians and accountants. An idealised view of the Jersey placement has been created, in which they are equally or nearly as good as the placements identified. But in my view, and that of the guardians, even if the already much-delayed *post hoc* funding for enhancing the provisions available on the Island - the so-called post-Williamson intervention monies - were forthcoming, these places will take some 18 months to 2 years to establish sufficiently to be therapeutic in quality, let alone comparable to the established placements identified. The placement plan also rests on one individual psychologist, who is to develop the therapeutic culture of the placements, train and supervise the staff team, and deliver the direct therapy to the children. She may well be unable to do that in the timescale projected.” Again, listen carefully: “This case has been unique in my

professional experience. Previously, in the cases I have been involved in, both in my N.H.S. and court work, the interests of the children have been held paramount in such a way that the only debate has been about how their needs are best met. Never before, never before, has my sincere and considered professional recommendations, which were endorsed by all the local professionals, led to such a complex minefield of finance and politics, in which it appears that the shock value, the total price of the placements, without comparison to the baseline of what would be spent on the children locally, that have been failed for so many years, so that the shock value is more influential than the local costs.” “Never before has my sincere and considered professional recommendations ... led to such a complex minefield of finance and politics.” Strong condemnation indeed. Thoroughly unprofessional behaviour on the part of some parts of the management of our Health and Social Services Division at that time.

**Senator J.L. Perchard:**

On a point of order, I wonder Sir, if I could ask the Deputy, who engaged Dr. Silva to give this report?

**Deputy G.P. Southern:**

I have not got that in front of me at the moment, and I am not giving way.

**Senator J.L. Perchard:**

Perhaps I could tell the Deputy, Sir, it was Health and Social Services.

**Deputy T. Pitman:**

Can I make a point of order, Sir, and say that that was a point of clarification, was it not?

**The Deputy Bailiff:**

That was not a point of order. Deputy Southern has not given way, he must continue with his speech.

**Deputy G.P. Southern:**

I do not believe the Member has made a speech yet, has he? He is perfectly entitled to do so when it is his turn. Not on my watch, please. I then go on, and bear with me in this, because it is important, to look at some of the legal information that was presented by Deputy Le Claire on his ... number is P.62, most recently. It is entitled *Some misconceptions and why*, and they reflect the views and opinions that were put about in court and elsewhere by certain members of the management of Social Services. Some misconceptions: “(1) Only one expert expressed the view that children should be off-Island.” He writes here: “Wrong.” Then he goes on to name 7 professionals who agreed that an off-Island placement was what was needed. He finishes: “How many experts and professionals do you need?” “(2) The view of these experts can now be discounted.” Again, he says: “Wrong.” He goes on to say: “After hearing from these experts and professionals, the Royal Court, on 26th March 2009, repeated the request for funding for U.K. placement of these children, stating in court that it did regard such U.K. placements as being ‘in the child’s best interests’. Yet the Minister refuses to heed all such pleas and follows blindly what appears to be a very narrow circle of advisers. Meanwhile the children continue to suffer. Incompetent, unprofessional? Yes.” Another misleading piece of information: “(3) Jersey can provide the same level of care for these children.” We have heard from Dr. Silva that in fact that was not true, and it beats on the same theme: “Every day there is delay, the children are being damaged more. The main staff planned for the Jersey units are not trained or qualified to anything like the degree they are in the U.K. placements, and they will take too long to set up. (4) The C.E.O. (Chief Executive Officer) considered all the relevant information in December, when he decided to create Jersey placements. Wrong. Crucial documents were not put before him. For instance, Dr. Silva had written on 7th November 2008, expressing the view, the children were merely being ‘warehoused’ in Jersey, and that the U.K. placements should be taken up urgently.

That letter was not part of the documentation read. The report of experts, including those employed by the States, in October 2008, declared that only the U.K. placements could meet the children's needs; this was not included in the papers. Further, the C.E.O. admitted in court on 24th February that he had not read the report of Dr. Silva, just 'short extracts'. Unprofessional, incompetent? Yes. In any event, whatever material was included against keeping the children in Jersey, was discounted by the C.E.O. for reasons the Court of Appeal held to have amounted to 'procedural impropriety'. The Minister and the C.E.O. had deliberately chosen not to disclose the Williamson implementation plan, and had relied upon their own private thoughts as to the significance of the document. They were not entitled to do so, and the whole process was flawed. In effect, the C.E.O. substituted his own views for those of the child welfare experts." He asks: "How can that still be defended? Unprofessional, incompetent? Yes." Finally, and I will come back to this point about funding, because it has been an issue today. "(8) [in the misleading data that was given out] It will cost too much to send the children to the U.K. than to keep them in Jersey." He says: "Wrong. The C.E.O. said, when giving evidence, 'the children cannot remain where they are, and that it is not an option the Minister would contemplate were funding not to be granted on 31st March'." Yet that is exactly what happened. The cost of sending the children to the U.K. is not cheap. The cost is so great because the children have been so badly abused when the States ought to have protected them. They were known to the States from at least 1999, so when the Assistant Minister and the Minister start saying: "We will have a review, we have got the Scottish Inspection Authority coming in to deal with this issue." Are they going to go back to 1999? Is that their role? I do not believe it is. Are they going to go back to 2005, when these particular children became a more serious issue? I do not believe they are. It is no good conflating these 2 issues - do we need an issue - on to this unprofessional and incompetent behaviour on the part of management, and ongoing inspection as to what we are delivering now. The 2 are not like comparisons. The Scottish Inspection Agency will be here, and will investigate what is going on, and what we are delivering post-Williamson. Not pre-Williamson, not back to 2005, not back to 1999, certainly. It is no good pretending we can clear this all up with other reviews, and the list of reviews that they have given, 7 reviews. They have all given a clean bill of health, and they have all come to their conclusions. Has any one of them dealt with incompetent, unprofessional behaviour? No, not one has applied itself to this particular case, for example, because there is other material in here. We are talking here about 200 sides of evidence, not all accusations - that would be an awful lot - but nonetheless, it is a bulky document. He then goes on to say: "The States ought to have protected them. The cost of keeping the children in Jersey could well be half a million pounds or more, once all the services they will need from the different budgets, Children's Services, Health, and Education, are taken into account. Unfortunately, no proper costings have been provided to compare like with like." What he is saying here is a repeat of what was said before by Dr. Silva, they used the shock figure of how much this would cost - and it was a large amount - without making the comparison, the base line figure; and if we keep them here, it is going to cost almost as much, and we are not guaranteed to do anything for the needs of these particular children, and we will have ongoing costs. But what these professionals advised, and they stuck to it for 3 goes, was: "We do not need this, we can cope with it." Thoroughly unprofessional; I believe, misconduct. But nonetheless, the question before us today is: do we want to clean this up? I would suggest, Members, that we do want to clean this up, we do want to wipe the board clean. We want to deal with this properly, without putting the stone back and quietly walking away. This House could decide that, and I believe that when Deputy Martin was drawn into shroud-waving - and she was - because of the statement of the Minister for Treasury and Resources on costs: "The Minister for Treasury and Resources may, under Standing Order 150(c) give directions on how the expenses of a Committee of Inquiry should be funded. The Minister considers that the cost, should this proposition be approved, must be met from the revenue cash limit of the Health and Social Services Department. The Minister has no intention of bringing a further request to the States for this additional funding." There we have it. It comes down to, do we want a clean sheet, do we want to clear these sorts of issues up once and for all, and give the Social Services Department a fresh start, a fighting chance, to re-establish its

reputation, to recruit properly, to retain properly, to maintain morale? Or do we want to carry on as before, with a big, black cloud hanging over many people in the service? I would argue that there is only one choice to make, and the fact that the Minister for Treasury and Resources has persuaded the Assistant Minister - my old-time colleague - that this would mean, if you want to spend it on this inquiry, it will mean doing without that, that, and this could cost part of Williamson, and that and that, it will be letting people down left, right and centre, is a shameful act. This Assembly can today, wipe that board clean, and I urge Members to do so. The evidence is there: we need this Committee of Inquiry.

**2.1.18 Deputy E.J. Noel of St. Lawrence:**

Firstly, many Members will know that I am personally involved in the protection of vulnerable children in the Island, via the fostering services provided on the Island. That said, I would like to pick up on a number of points raised by some Members. Senator Breckon said that all contributions were treated with equal weight, and in his letter of 20th October 2009, the allegations were neither specific nor conclusive. He went on to say that they had no hard evidence that failures had occurred. I had thought that Scrutiny was supposed to be based on evidence. We are being asked to engage in an inquiry based on no real, hard evidence. A number of speakers have referred to serious allegations regarding child abuse by staff in our children's homes, yet the sub-panel has refused to give us that information so we can investigate the allegations. They also say the staff have to have an opportunity of replying. I agree, we do need to investigate these allegations, to allow both the staff and potential victims to get to the truth. However, we do not need an inquiry to do this. Senator Breckon said that he has, and I quote: "Many, many documents on this." If that is the case, then why not share those documents with the Minister, with the Chief Minister, with the chair of the Child Protection Committee? I repeat, we are being asked to carry out an inquiry based on no hard evidence. This proposition appears to be linked to the fact that the sub-panel did not get to have an interview with a former Minister for Health and Social Services. Do Members really believe that inquiry would succeed where the panel have been unable to do so? Deputy Lewis says that we wanted to close down this. No, we do not. We want to focus on the future and the present, and not the past. To answer Deputy Jeune's question, I agree with Deputy Green. Serious allegations have been made and need investigation, but not by an inquiry, but by the Scottish Social Workers Inspection Agency, as they will be as thorough, but more importantly, they will be quicker. To inform Members, the cost of an inquiry will be well in excess of the £200,000-£300,000 quoted. As a guide, to date, Verita's has cost just short of £500,000. Such money is better invested in the service, not in an inquiry. To answer some of the Deputy of St. Martin's questions, the Minister wrote to the chairman of the sub-panel on 17th September and on 6th October, and to further answer his questions as to why the Health and Social Services Department have more suspensions than other departments, very simply, it is down to mathematics. We have in excess of 2,500 people working for us out of just over 6,000 States employees. That is why we have more suspensions. To address some of Deputy Southern's concerns regarding the existing management, we are doing exactly that. We are appointing an independent transitional director to implement Williamson. In conjunction with that, we are going to be seeking to appoint a director of community and social services. We are supporting most of the recommendations of the sub-panel, and we will be putting them in place. Of Deputy Southern's 80 or so duty cases, and of the fire-fighting in 2006, is that not clear evidence that we need to invest, not to inquire? Deputy Hilton comments on naturally distressing ... we could move forward with this matter, and indeed any others, but we do not need an inquiry to do this, we just have to get on and do it, and all of us, and I mean all of us, should be working together for the benefit of our vulnerable children, as Deputy Hilton has already shown that she has done. It is time for this Assembly to decide: do we keep looking back, or do we look forward and act? I urge Members to reject this proposition.

**2.1.19 Senator P.F.C. Ozouf:**



I do not want to repeat or emphasise any of the excellent contributions that have been made, one of which has just been made by the Assistant Minister for Health and Social Services. I do not think that any Member of this Assembly disagrees that there are massive challenges facing Health and Social Services, both the Social Services and the Health Department. Since I have become slightly closer, if I may say, to Health and Social Services, and in the last few months, recognising the scale of the problems, I have been asking myself, why are these issues emerging? It is important, of course, that there is strong, independent political leadership. It is quite clear that for a time - and I am not going to have a go at Senator Shenton or Senator Perchard, because I think that they did start that process of putting in place independence, I think they did start challenging. It might have been the case that they did not have the appropriate resources. It might not be the fact that they had the appropriate advice. Deputy Hilton said: "Well, why would they?" I am sure that she was not casting aspersions on staff within Health and Social Services. I think we all know that staff at Social Services and Health are diligent, they are caring, and they are hard working. But what I wish to say to the Assembly is the structure within which they work needs to be appropriate. There needs to be accountability. Many Members' concerns about Social Services and Health, I have to say, are justified. My view is that the structure of Health and Social Services has contributed to the issues. This is difficult to say, but the previous management, the Chief Officer and the management team, as I have seen the hierarchy, were responsible for policy, they were responsible for governance, and importantly, delivery; not only in Health, but Social Services as well. I think, and indeed everybody that I have spoken to, and I have spoken to a number of people who I know well who work in the health world outside of Jersey, have said that the structure is wrong. Well, they would not, would they? Of course, the structure needs to ensure that there is an appropriate separation of duties. So I think that I welcome the Minister for Health and Social Services' comments to this proposition in saying that she recognises that there is going to be a different structure in Health and Social Services, there is going to be a new director, appropriately, of Social Services. I am certainly asking her to go further in going forward in putting in place further separations. You would never have this kind of structure in the United Kingdom or in other places. I recognise that a new structure is probably going to be more expensive, but I recognise that that is what we have got to do. We have all responded by putting significant additional resources in Health and Social Services. I will continue to commit to finding and indeed, if necessary, raising the necessary resources in order that we properly have a functioning and well-run Health and Social Services. But I do want to see that the money is spent on, as Senator Le Marquand says, getting things done. I have just seen an email which I understand can be shared, by Mr. Taylor, who I think is the chairman of the Child Protection Committee. I understand that the email says - because he has been following this debate - that he strongly believes that money should be invested in services, in no longer doing any more further inquiries. We should be investing in services. Deputy Hilton and Deputy Noel, among other people, have spoken passionately. All Members of this Assembly are right to be concerned. I would say to Deputy Hilton that if the shoe was on the other foot, and this was an issue at Home Affairs that we were talking about, I suspect that Deputy Hilton, with her Minister, would be saying: "These are issues for us as the Ministerial team to deliver, these are issues that we must commission, that we must be in political charge of our department. We will be bringing in the independence, we will be putting in place the necessary management structures" as I know both the Minister and the Assistant Minister is doing with the scale of problems that exist at Home Affairs. If this would have been 12 months ago, then this proposition might have been the only way to proceed, but 12 months on, we have had numerous reviews, we have now got additional money, and we are now talking - and indeed putting in place - a revised structure. I strongly believe that this Assembly must support the new Ministerial team, that they must require the new Ministerial team to deliver on all of the uncovering, of shining the torchlight, as Deputy Le Claire said: he said that there should be no stone unturned. Deputy Southern also spoke about no stone being left unturned, there should not be any cover up. That is absolutely right, but the way to do that is by supporting the Health and Social Services Ministerial team in the work that they are doing, not in, I am afraid, having a further review, a further set of

inquiries which will take and consume massive, inevitably, amounts of management time, rather than getting on with, as Senator Le Marquand said, a can do approach and go about reforming and improving the services. If necessary, taking up the issues that Deputy Hilton raised about a further inquiry. I suspect that it is not the only issue that the new structure and the new Ministerial team are going to uncover. I suspect there are lots of issues which are going to have to be dealt with, but it is by the Ministerial team that must do that work, not by setting up a second, parallel inquiry, which is extremely wide in its brief. Also, I think that it has - and I am not going to repeat some of the comments that have been made by others - it has not been on the back of a specific issue. It is really on the back of a general set of concerns, which I think everybody shares. I am not going to vote in favour of this proposition, but that does not mean to say that I do not equally share the concern and the desire to see a step change in improvement in structure in Health and Social Services.

#### **2.1.20 Senator J.L. Perchard:**

If I may just simplify things as best I can, and remind Members of the proposition on page 2, part (a). If I would be permitted just to read it: "To agree that a Committee of Inquiry be established in accordance with Standing Order 146 to inquire into a definite matter of public importance, namely the actions and effectiveness of the management of Health and Social Services and other services available to vulnerable children." Is that not what Andrew Williamson just did? I think it is to inquire into the services available to vulnerable children. This proposition, if it seeks to go back into history, will certainly need some artistic license when we draw up the terms of reference, because the proposition does not suggest that we are looking to go into the depths of history on a witch hunt. There are a couple of points I want to make. The Chief Minister, when he spoke, and I quote: "There is no mention as to the cost of any inquiry ... an absolute mystery." The Minister for Treasury and Resources, in his comments, said that the cost of any inquiry will of course have to be borne from the Health and Social Services budget. Let this not be about cost. If we need an inquiry, this House has the authority to instruct the Minister for Treasury and Resources as to where the money must come from. Chief Minister, it is not about cost, it is about the need and the requirement for an inquiry, so let us put the money side of it away. I have heard Deputy Hilton and Deputy Southern, and Senator Breckon quote the absent Senator as to why we should have an inquiry. I am struggling to think of any other contribution from any Member as to what particular reason there is to hold an inquiry. Deputy Hilton spoke passionately about a family who had been let down by parents and subsequently by the States for not intervening early enough. Deputy Southern spoke about a family that we all have come to know about - family X - and the exhaustive debates that this House has had about this terribly unfortunate family, and how their parents, and subsequently, the judicial system, Children's Services, failed that family. Both cases are well known to the service, one is the subject of a serious case review, the other I know, is on the agenda, and Deputy Hilton has confirmed that it is on the agenda, of the Jersey Child Protection Committee. We have had a - I will say the word - failing Children's Service. In fact, I say "failing" because the States has forgotten to recognise the new standards that it placed upon the Children's Services when it passed the Children's (Jersey) Law 2002. It failed to recognise that by supporting the Children's Service with extra funding. Dr. Silva, and I quote Deputy Southern just now, Dr. Silva, who was engaged by the Health and Social Services Committee to review family X, and report independently on the treatment that the Health and Social Services gave to family X, said - and I wrote it down because I thought it was absolutely spot on - Dr. Silva said: "Political and financial influences have influenced the treatment of these children." How right she is, how right she is, particularly financial influences. The Children's Services have been fully stretched, we all know it. They have been under-funded, massively under-resourced, for years and years, failed by their previous President and Minister, and it was in Senator Shenton and my time, and now I know, Deputy of Trinity's time, but we are upping the support for this unresourced service, and it does take time. We have reviewed the service and it has even taken this House far too long to find the funding for the service. Remember please, Members, earlier this year, when it was decided: "Oh,

no” not to give, when the Minister for Treasury and Resources brought a request for £1.4 million for urgent funding: “No, no, we will refer that and put that to Scrutiny.” It has been immensely frustrating for those working in the service. We have had Deputy Southern, we have had Deputy Hilton, raise 2 extremely sensitive and important cases where children have slipped through the net. But our Children’s Services is not as bad as people make out. It is under-funded and under-resourced, we are dealing with that. The other allegations, other than that of the 2 Deputies, is that of the absent Senator. He is the same Senator that makes allegations about the Bailiff and his old boys’ network. He is the same Senator who makes allegations about you, and your failures.

**The Deputy Bailiff:**

Senator, one moment please. If I may say so, the question before the Assembly is whether a Committee of Inquiry should be established, and I think you would be better if you could confine yourself to that.

**Senator J.L. Perchard:**

I understand, Sir. But you can imagine the frustration that some of us feel, when these allegations fall like hailstones, at random. Many of us have been subject to allegations. The Children’s Services, on a Monday morning, are perhaps the target, it will be another service on Tuesday. Unless and until the Senator can provide evidence that indicates to me that we must have an inquiry, I will not recognise his allegations as having any validation. I when I was Minister, and I know the Deputy of Trinity now she is Minister, and I know Senator Shenton when he was Minister repeatedly asked the Senator for evidence. If one reasonable grain of evidence came my way, and I am sure with the Deputy of Trinity of one reasonable grain of evidence came her way, we would be supporting this wholeheartedly. These random allegations of incompetence, abuse, need to be recognised for what they are. That of a dissatisfied, disgruntled Senator who wants to bring down everything that Jersey is about and wants to change everything and everybody. Until we can get something substantive to support the request for an inquiry I certainly will not be supporting it.

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

I shall be supporting this proposition and for many of the reasons that others put forward, therefore I shall be brief. Before I came into the States I, like many other people, believed that the States consistently covered up unpleasant facts and swept things under the carpet and I have been in the Assembly for a year now and my view has not changed. I have found the Council of Ministers, with one or 2 notable exceptions, have constantly opposed any thorough investigation of virtually anything that is being proposed especially on the grounds of cost. I find some - but I again stress not all - Ministers and senior civil servants are secretive and inclined to spin the unacceptable and to delay unfavourable reports or allegations. The States was and is still considered by the public at large to be incapable of dealing with these issues and problems and I believe that this is one of the reasons why it is considered in such low esteem. If we are ever going to restore public trust in this Assembly and politicians generally we must address these issues by such means as Committees of Inquiry to get to the bottom of matters. Let us lance the boil and stop the festering for years to come. Let us root out the bad apples, as has been said. Senator Perchard was saying about Senator Syvret ... well Senator Syvret has been castigated in this Chamber by some for his attacks on, and again I stress some of the staff in this department and area. I personally believe he was right to do so and I say so because I have independent evidence of cover-up in this department of children ... sorry if this is a case of protecting the people concerned but I will do if there is an inquiry, I will make sure those people come forward and give it. Because there was cover-up in the sense that children who wanted to see Kathy Bull or even to see Senator Syvret on some of his visits round the children’s home were prevented from seeing them for fear of what was said. **[Interruption]** Well, sorry, it was Senator Syvret then, but Senator Syvret went round and certainly they were stopped from seeing him. **[Interruption]** I am sorry, he did? All right. This information will be put forward. So all I can say is that I happen to believe that the only way we are ever going to get

to the bottom of anything like this and restore trust is to have this inquiry and I will support it. Thank you.

### **2.1.22 The Deputy of St. Mary:**

I will be brief. There are 2 things I think really, I think it is 2 anyway. One is this repeated thing we have from certain Members of the House, and by the way I have not made up my mind on this, the first is we want to focus on the present and the future. We want to move forward, and I am quoting from the Assistant Minister, Deputy Noel, is that right? Anyway, the Assistant Minister: "We want to move forward, we do not need an inquiry, we have to get on and do it." The Deputy of St. Ouen: "We cannot continue to focus on the past. We need to care for our children now." What popped into my head when I was listening downstairs when I heard those words of the Deputy of St. Ouen was an agricultural analogy of looking after your field, and what the ongoing reviews by the Scottish body that is being proposed, or that is going to happen, that is looking after the present state of the field. That is making sure it is okay. But what this inquiry is about is a sub-soiling job. There is a pan the plough has gone over for years and years and there is something that has to be broken up deep down, and that is what the proposal is suggesting. So it is not a matter of... you cannot just say: "Well, it is just a matter for the present. Just keep going. Do not worry, it looks all right on the top." Because the problem is, we are told, deeper down. So I just do not accept this matter of the past is the past, it does not cast a shadow on the present. It clearly does. So that is the first thing I want to say, just to sweep away that whole kind of the past does not exist, we are living now, carry on and so on. Because I do not think that is a valid position. The other thing I want to say is something else somebody said was get to the truth, the Assistant Minister: "Get to the truth, we do not need an inquiry to do this." Well, I find that quite a puzzling statement. If that is what we need to do to get to the truth then presumably we do need some sort of inquiry that has its own focus to get there, to sort all this out. Finally what I am hoping to hear from the proposer is an answer to the question put by the Council of Ministers in their comments: "There are no grounds for this Committee of Inquiry." That really is the key, is it not? It was referred to by I think the Minister for Treasury and Resources and so on. Is there a case? Is there something that has gone wrong? Is there enough evidence to justify going forward and finding out the whole picture or is it too much on hearsay? I am not sure that we have reached that middle stage that the Deputy of St. Martin referred to when he said: "You have 3 stages. You have the allegations, you have checking the allegations to see if they are worthy of further investigation and then the investigation." I would like the proposer to assure me that that second stage, we have reached it, that there is enough there to say that, although certainly I was very moved by the speech of Deputy Hilton and maybe that was what was meant. Maybe that is enough, but I just want clarification on that. A final little point from the Minister for Treasury and Resources we heard a lot about policy, governance, delivery being muddled up and the structure was wrong and so on. We did not hear a word about funding and hopefully this review would include that aspect of a failing or a service that has had real problems in past as we heard from Senator Perchard. He alluded to funding so it is an issue, has been an issue. Maybe that is the cause of the problems and the review would also look at that. So I look forward to the summing up.

### **2.1.23 Senator B.E. Shenton:**

Evidence-based, you can almost call this the motto of Scrutiny. Unfortunately we have a proposition here that has very little in the way of evidence and is backed by speeches that also contain little in the way of evidence. When I took over as Minister for Health and Social Services from Senator Syvret I did not receive any evidence to back up various allegations that he had made. In fact to put it bluntly he seemed more concerned with his own sacking and wreaking vengeance on those that had done him wrong. To call a Committee of Inquiry on the back of such baseless rumour is, in my opinion, just ridiculous. There are problems with Social Services and yes, they are being addressed, but who would want to be a social worker in this climate? How many of us in this Chamber would want to undertake social work? They have been used by the politicians for

political gain and they have been used for far too long and it is about time it stopped. We really are turning into a very sad society. We are quick to blame and slow to support. We believe in unreliable Internet rumour. We take away the rights from the aggrieved and favour the aggressor and we listen to people with personal grievances and cannot see through the charade. Deputy Hilton made a very impassioned speech and spoke of injustices but what will a Committee of Inquiry achieve? It cannot turn back the clock. It will not make things better for the future. What it will do is divert essential resources from a department that is stretched. It will make the department look backwards rather than commit to look forwards. In my opinion the cost of a Committee of Inquiry is not of any particular relevance. It is all about making sure that we get to where we want to and we get there as quickly as possible. A Committee of Inquiry may make us all feel better as politicians but unfortunately it will not change the past. Ultimately I am not aware of what benefits a Committee of Inquiry will bring. In fact I fear that social workers will become paralysed by the witch-hunt culture of this society. We will end up with an over-reactive, under-resourced Social Services Department and this proposition will do more harm than good. Deputy Le Claire accused the department of deliberate incompetence. In my opinion this is an outrageous remark to make in this Chamber against a department that cannot defend itself.

**Deputy P.V.F. Le Claire:**

On a point of order I never said “deliberate incompetence”. I said there was evidence of incompetence.

**Senator B.E. Shenton:**

I will accept that answer, although I believe he did say “deliberate incompetence”.

**Deputy P.V.F. Le Claire:**

On a further point of order for clarification, if I did say that it was inadvertent and I withdraw that. I meant, and I am certain I did say “evidence of incompetence.”

**Senator B.E. Shenton:**

What sort of signal do these messages send out to Social Services in Jersey and how will it improve Social Services in Jersey? We are told that if we carry out a Committee of Inquiry this will sort it out once and for all. Absolute rubbish. It will achieve very little and set back the important regeneration of social services. It sends out the message that the politics of blame are more important than the politics of improvement and more important than the politics of moving forward. I ask this House to support Social Services and not to destroy it.

**2.1.24 Senator T.J. Le Main:**

I have known Deputy Martin, the Assistant Minister of Health, for quite some time now and she and I are not always on the same political spectrum and we have often differing views. But let me say to this Assembly today that her speech today and her dedication to Health and Social Services and to the children, I cannot think of anyone better qualified in this Assembly to take on this very, very serious role. In fact she is magnificent in her dedication to getting to the bottom of this. Deputy Martin has my total support and the Minister and the other Assistant Minister in moving forward and we need to get behind the Ministers today to allow them, with the new structures that they are proposing, with the new director of the General Hospital, a new chief executive and the rest of it. I am like several others and I have heard Senator Ferguson on many occasions since she was evicted complaining bitterly that the management structure at the hospital was not, in her opinion, the structure that was required in a modern age. I have heard Senator Ferguson say that time and time again. Yes, ably said by the Minister for Treasury and Resources, we are through the Minister and 2 Assistants about to provide a new vision for the Health and Social Services and again I have to say that the previous 2 witnesses, the Senators Shenton and Perchard, I thought would do an excellent job under restricted policies, out of date policies, out of date structures, that we have allowed the Health Service to continue. It has been under those extreme circumstances

that the previous Minister and 2 Ministers before that have had to work under. It has been going on for years and years and years with really unfortunately no real political leadership before Senator Shenton. I just cannot see that we need to go forward with this proposition. I was quite surprised to hear Deputy Le Hérissier, and I sent him a note yesterday to find out if he was unwell or not, he had not spoken and he is well known as a Minister of Inquiries. States of Jersey Minister of Inquiries I have called him. Every time we have a debate similar to this Deputy Le Hérissier and my old friend on the corner there wants an inquiry. We are getting lumbered with inquiry after inquiry after inquiry. One of these days we will have an inquiry to look into the inquiries. It is a blame culture. Blame everybody else, and I have to concur exactly what Senator Shenton has just said. This Island is blessed with good, high-quality staff doing a lousy job and being criticised by Members of this Assembly, particularly one Member who does not have the guts to return back to the Island. We are blaming people that cannot defend themselves and I feel ashamed as a Member of the States Employment Board to find myself in a position at the moment that really we have no effect on the way that allegations and the staff are being harassed in this Island. Public sector workers... and I know a little bit about health, I was Vice-President for a number of years and I sat on Health and Social Services for many years, and I am still the only Member that visits the hospital wards on Christmas morning. Not even the previous Ministers have ever done that. I do it. **[Interruption]** ... well I will retract it, but I am the only States Member that visits Christmas morning. I just cannot come to anything that allows me to support this proposition. There is no evidence whatsoever and to hear some of the speeches is quite embarrassing. I want to be able to stand here today and support the staff, our employees, right across the board and as I say this blame culture of accusations, wild allegations, Internet allegations, naming of people is an absolute disgrace and something we should really put our foot down. I urge Members to fully support the Minister for Health and Social Services and the 2 Ministers and in particular the Assistant Minister Deputy Martin, whom I have total confidence will work to achieve what will be a new structure, new aims with new funding put in place. I do not want to go back on what has happened over the years, but really it is being blown out of all proportion - really blown out of proportion - and certainly in my opinion and my experience nothing as bad as what has been highlighted with politicking by certain Members. I am not going to support this proposition as you can imagine and I urge Members to seriously consider the damage we continue to do if we do not draw a line under this today. Thank you.

#### **2.1.25 The Connétable of St. Lawrence:**

I will try to not repeat what has been said during this very long debate. Firstly though, with reference to the previous speaker and his visit to the hospital on Christmas Day, I would like to recommend to the current Minister that she and her Assistant Ministers do make the effort to visit the hospital because in Senator Perchard's absence last year that is exactly what I did as one of his Assistant Ministers. I visited the hospital on Christmas Day and was taken around a number of wards and it was extremely heartening to be welcomed by the staff and the patients on Christmas Day and to be able to offer my support and thanks to them.

#### **The Deputy of Trinity:**

Can I just say I will be doing that and I shall include the children's homes as well?

#### **The Connétable of St. Lawrence:**

I mention that because it gives me the opportunity to remind Members that I am in a somewhat unique position here today because I have been an Assistant Minister of Health and Social Services and I now sit on the Health, Social Security and Housing Scrutiny Panel. Notwithstanding that P.154 was lodged before my appointment to that panel I just want to touch on a few points that have occurred to me while I have been listening to the debate. We have heard reference to Senator Syvret and his role in the inquiry into vulnerable children and Senator Shenton has just made reference to Senator Syvret's apparent lack of evidence, and I just need to concur with that because

the Senator contacted Deputy Martin and myself with allegations that he said he was able to substantiate regarding services available to vulnerable children and the lack of care, I think, that was given to them and I think he used the word “incompetence” and was really implying that there had been a dereliction of duty by the officers responsible for those children. Deputy Martin and I both agreed to meet with the Senator in order that he could present us with the evidence because obviously as Assistant Ministers we needed to take him seriously and we needed to be aware of the allegations that he wanted to put to us. I have to say that the Senator, after we both agreed to meet him, never got back to us at all so I cannot stand here today and say whether he has evidence that would be pertinent to an inquiry because if he does have it after he offered it to me and to Deputy Martin he then chose to not give it to us. I leave the House to judge for themselves on that. What I am concerned about is how we define vulnerable children. How do we define a vulnerable child? Because I am sure in our role as States Members most, if not all of us, will have been contacted at some time by people who are concerned about vulnerable children and we have heard today the Deputy of St. Ouen said: “Will it help to turn back the clock? We need to care for those in our care now.” I would say that the clock is ticking now because I believe, although I am not completely sure how to define a vulnerable child, I believe there are vulnerable children in our society now that we should be concerned about and we should be looking after. Just an instance that I know of I would just like to mention a particular case. A young family, mother and father separated, 2 teenage children in that family. The daughter has stayed with the mother, the 14 year-old son has chosen to go and live with his father. This family is known to Social Services and the mother became concerned when she heard that her son was staying out until all hours. He was out drinking, he was getting into trouble with the police, and she also learned that over the Internet he, this 14 year-old boy, was offering sexual services. What does the mother do? She contacted Health and Social Services. They did not want to know, those were the mother’s words to me: “They did not want to know.” Now I consider that child to be a vulnerable child. I consider his sister to be a vulnerable child because she is caught up in a family where this is going on. She is caught up in the struggle between the mother and the father; vulnerable children known to Social Services. To come back to the proposition itself in part (a), it does refer to the effectiveness of the management at Health and Social Services and it also refers to: “And other services available to vulnerable children.” I cannot remember which Member it was who made mention of that and said: “This could be a very broad inquiry because we do not necessarily need to stop with Health and Social Services if we are looking at all the other services which are available to vulnerable children that would incorporate Education, it could incorporate Home Affairs.” I know of an instance where children under the care of Health and Social Services are disruptive in their school. They disrupt their class, they are suspended. The parents in the particular case that I am aware of have not been informed that their child has been suspended and the children go out, they cause trouble, they are picked up by the police who are under the remit of the Minister for Home Affairs, they appear in the Juvenile Court and to me this is almost a non-ending circle. It is a revolving door. It just goes on and on and on and these children are under the care of Health and Social Services, but as I said this could be very broad. We are looking at other services which are available to vulnerable children. I said that I did not want to repeat what has already been said so just a few other comments. Senator Ozouf and others have referred to the many reviews that have taken place but none of them I believe have asked about accountability and I do believe that if this inquiry went ahead accountability would have to be an important part of the terms of reference. Having said that, again the difficulty is the balance in having an inquiry that is fair and just and that would lead us to an end result that would be positive that we could build upon and not conducting the witch hunt which we have heard mentioned a couple of times today. In my very short time, and I do mention this every now and again, I did have a very short time at Health and Social Services but during my discussions with Deputy Martin there we both agreed that yes, there is quite a lot wrong there at Health and Social Services and I am not afraid to stand up and say that. But we were absolutely convinced that if the Williamson recommendations were implemented that the wrongs that we know that have taken place in the past should and would hopefully not happen again. We

would have those checks in place for us to move forward into the future. I think that is probably everything that I can say which I believe has not been said before. I think to summarise, I have not been convinced that there is a need for a public inquiry into this and I ask the proposer, the chairman of the Health, Social Services and Housing Scrutiny Panel, I hope in his summing up that he will maybe address a couple of the comments that I have made and I look forward to hearing his summing up at which time I will decide how I will vote on this proposition.

**The Deputy Bailiff:**

We have had a long debate. I do not know whether other Members wish to speak but it is sure that much has been said already and it might be thought desirable to allow the proposer to sum up tonight so that we can vote tonight.

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

A lot has been said and I will not repeat anything that has already been said although there is this question over evidence and Deputy Southern has pointed out that information has been provided to the Scrutiny Panel in confidence. I am sure after great consideration that is why the Scrutiny Panel has brought this forward and I would like to congratulate all those who have come forward not only in the Scrutiny review but also toward the Verita review to offer the information that they have. I comment on the Deputy of St. Ouen's remarks where he says we do not need to blame people. No, but we do need to identify failings in the system. We do need to identify places where it is going wrong and under what is proposed and what we have is that doing that in a complete way? Again I will wait for the summing up but I ask Members to consider that.

**2.1.27 Deputy J.A.N. Le Fondré:**

I appreciate it has been a very long day. When I first came to the proposition I must admit I was originally half minded to support it. There is a "but". There has obviously been huge doubt cast over all the issues in Health over the months and years gone by and many people have referred to that. What I have come to, I am balancing up and I think Senator Shenton has referred to them slightly, or quite considerably, the comment that the chairman of the panel made that it was simply stated that unprofessional behaviour had occurred but we do not have hard evidence that failings have occurred with regard to vulnerable children, but we do have serious allegations. Senator Shenton has referred to that quite considerably and I am not going any further, but on the other side - I think it is worth reiteration - is the very plain and very clear wish of the Minister and her Assistant Ministers to address these issues and I think we do need to recognise the changes that have taken place and the new changes proposed and we also had reference of the 7 reviews I think it is, and I think that is excluding Verita but I will come back to those as well. I have a lot of regard for Senator Breckon and the panel. In fact I consider a number of his reviews he has done in the past have been very balanced and very well put together, but I think we should let the Minister move forward, give them time to change and see what the results of the independent inspection in 2010 are and the recommendations that come out of it. I particularly have to say, I have listened to an awful lot of the speeches today, I particularly enjoy Deputy Martin when she gets fired-up and in this case I put great store by what she says. I found her quite passionate, quite persuasive. There is a will to deal with the issues. There is a huge wish to move forward and put things right. I think it very worthwhile to repeat the comments from the Council of Ministers, namely that the Minister considers it inconceivable that such concerns if evidenced would not come to light via an inspection in 2010 and is committed to publishing inspection results into the public domain. For me that is pretty critical. The new bits, because I appreciate that is effectively a summary of a lot of what has been said today, a new bit that I would like to add into the picture is I would like to quote from an email I have been passed which came in about the last hour and a half which is from the chair of the J.C.P.C. What it says, and I will read directly from it: "I think the emphasis on the proposed creation of a new Children's Service is sound and needs to be made much of. Similarly the investment in an independent chair of the J.C.P.C., the contract with the S.S.W.I.A. (Scottish Social



Workers Inspection Agency) and aspects such as a complaints procedure all create a more open and scrutinised service resulting in improved performance and greater public confidence.” But this next bit to me is quite key: “Finally I cannot stress too strongly that investment has to be in services for the future and not in further reviews and inquiries. The number of these already undertaken at significant cost both in terms of budget and diversion of management and professional time is worrying.” Certainly that adds to my feeling of the lack of a necessity for a Committee of Inquiry and on all of those bases I will not be supporting the proposition and I would encourage Members to vote against it.

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

I do wish to speak on this proposition but looking at the time I could not do it in 3 or 4 minutes or even 10 minutes.

**Deputy P.V.F. Le Claire:**

Could I propose the adjournment please, sir?

**The Deputy Bailiff:**

The adjournment is proposed. Is that seconded? **[Seconded]** All those in favour please show. Did I hear you ask for the appel?

**Deputy S. Power:**

I would like the appel, Sir. There are certain arrangements that people make. I appreciate that this has been a long debate. We are coming in tomorrow anyway, but there are ...

**The Deputy Bailiff:**

Very well. The appel has been asked for. Members are invited to return to their seats to vote on the question of whether or not the States should now adjourn until tomorrow. The Greffier will open the voting.

<b>POUR: 22</b>		<b>CONTRE: 23</b>		<b>ABSTAIN: 0</b>
Senator F.E. Cohen		Senator T.A. Le Sueur		
Connétable of St. Ouen		Senator P.F. Routier		
Connétable of Grouville		Senator P.F.C. Ozouf		
Connétable of St. Mary		Senator T.J. Le Main		
Deputy R.C. Duhamel (S)		Senator B.E. Shenton		
Deputy of St. Martin		Senator J.L. Perchard		
Deputy R.G. Le Hérisier (S)		Senator A. Breckon		
Deputy J.B. Fox (H)		Senator S.C. Ferguson		
Deputy G.P. Southern (H)		Senator A.J.D. Maclean		
Deputy P.V.F. Le Claire (H)		Senator B.I. Le Marquand		
Deputy J.A.N. Le Fondré (L)		Connétable of Trinity		
Deputy S.S.P.A. Power (B)		Connétable of St. Brelade		
Deputy S. Pitman (H)		Connétable of St. Saviour		
Deputy K.C. Lewis (S)		Connétable of St. Clement		
Deputy I.J. Gorst (C)		Connétable of St. Peter		
Deputy M. Tadier (B)		Connétable of St. Lawrence		
Deputy A.E. Jeune (B)		Deputy J.A. Martin (H)		
Deputy of St. Mary		Deputy of St. Ouen		
Deputy T.M. Pitman (H)		Deputy J.A. Hilton (H)		
Deputy M.R. Higgins (H)		Deputy of Trinity		
Deputy D. De Sousa (H)		Deputy E.J. Noel (L)		
Deputy J.M. Maçon (S)		Deputy T.A. Vallois (S)		
		Deputy A.K.F. Green (H)		

### **2.1.28 Deputy S. Power:**

Sir, I will be as brief as I can because I am sure Senator Breckon will want to take some time to sum up. When the Minister for Health and Social Services was first elected last April I had a private thought to myself: "My God this woman will need the heart of a lion" and it has come to pass in the last 7 or 8 months that this is indeed the case. She has taken on a department that has needed a serious amount of looking at, a serious amount of strong politics and a number of brave decisions. I congratulate her on what she has done in the last 7 to 8 months. When I first read the Scrutiny Report and then the proposition I agreed to a large extent with the contents of the Scrutiny Report. There are allegations about misconduct and incompetence and these would have to be investigated at some stage. However, I am minded to remind Members about some of the words that Deputy Green spoke today when he talked about staff and how they would feel, I think he used the words: "The beneficial effects of clearing the air" for the allegations and the blogging that has been going on about staff within Social Services. My view also is that there is another scenario to what Deputy Green said and that is that there may be members of Social Services who would for all the right reasons not wish for a Committee of Inquiry because it casts another long, grey cloud over Social Services for the next foreseeable future, whether it is 3 days, 3 weeks, 3 months, 6 months or much, much longer. I know some people in Social Services, some who have recently arrived, and some of the discussion within Social Services is that they want to get on with the job. If there were to be a Committee of Inquiry I would wonder what the terms of reference are going to be. Do we deal with present employees, do we deal with the present tense, do we deal with past employees or do we deal with dead employees? Are we to conduct an investigation which purely deals with a snapshot of Social Services as it is now or do we deal with what has happened and why Social Services is in the position it is in? I feel that were we to expand into a Committee of Inquiry with very wide terms of reference we could be here for 2 years. That would have to be decided by the States. That is one of the issues we deal with in this. I am going to have to cut this down because I am going to start irritating people if I talk for very long. In the caring departments of the States we have Health and Social Services, we have Social Security and we have Education, Sport and Culture and I suppose, to a lesser extent, we have the Housing Department, and indeed within the Housing Department we come across families, for whatever reason, there are issues within those family units and we have lots of evidence in the Housing Department of unfortunate children who are brought into this world by young men and women who do not have certain life skills and they themselves have had poor parenting and they pass on this scenario to these younger members of society. Then we deal with mother Jersey, sister Jersey, Social Services Jersey has to pick up the pieces and that is where we are today. We are picking up the pieces for problems that have been brought into society today and it is the family of the caring services that have to deal with it. Deputy Southern mentioned cleaning it up and he linked cleaning ... that a Committee of Inquiry will clean things up. My suggestion on that is what will a Committee of Inquiry, whether it takes 3 months, 6 months or a year give the Minister for Health and Social Services to clean up what she is already trying to clean up? What new ammunition, what new evidence, what new management skills will it give the Minister for Health and Social Services to deal with what she has to deal with now? I say: "Not a lot" apart from more cost to her department and in some ways tying her arms. I think the Deputy of St. Ouen said it and one or 2 other people said it - Deputy Noel certainly said it - we need to move on. What has happened in Social Services, the mistakes that have been made in Social Services, some of the incompetence and some of the negligence that has been identified as evidence cannot be justified and what we hope to do and what the Minister for Health and Social Services wants to do and what Deputy Martin wants to do is stop it happening and create a better Social Services Department. I for one, when I am asked to spend taxpayers' money within this Chamber I want to do it so that we get a result and I think I would be happier to have more money going into services in Health and Social Services than looking at what happened. We need to find out so that what happened is not repeated and that is my concern. There are big issues at Health and there are big issues at Social Services, and I think our Minister for Health and Social Services when she could have set up for election and dived into that cauldron she knew what she was taking

on. She has had a summer of discontent, she has found some of the answers, not all of the answers, but I think every person in this Chamber, man and woman to a Member, have said that they have belief that the Minister for Health and Social Services can get to the bottom of this and make the Health and Social Services Department a better department. It is unfortunate that she is the fourth Minister in 2 and a bit years but circumstances have created that situation and she has come on. I think both previous Ministers for Health and Social Services, Senator Perchard and Senator Shenton, have the same view as me and that is that the Minister for Health and Social Services should be allowed to get on with her job with as few constraints as possible. There are many, many, many investigations that have been ongoing and have taken place in the Health and Social Services Department in the recent past, certainly since I have been a Member of this Assembly. I am now coming up to my fourth anniversary, and I urge Members really to have faith in the new team at Health and to support the Minister for Health and Social Services and so I will not be supporting this proposition.

**The Connétable of St. Mary:**

I feel I have to say it is my job as chair of the P.P.C. (Privileges and Procedures Committee) to defend Standing Orders, Sir. We do have a process in place for adjourning at 5.30 p.m. especially where there is a continuation day. This week we have 2 more continuation days planned. As a result many of us have shoehorned meetings we would normally have on other days during the week into the evening. It has been impossible for Members at short notice to arrange childcare. This has been an incredibly emotive and important debate and I have just heard the last speaker say: "I will have to curtail this otherwise Members will be cross with me." I do not believe we should rush the proposer into summing up. I think if I might I would like to move the adjournment again, Sir. **[Seconded]**

**Deputy S. Power:**

I did want to speak tomorrow morning. **[Laughter]**

**The Deputy Bailiff:**

Deputy, if I might say so whatever the outcome of this next 5 minutes you will not be speaking on this subject again tomorrow morning. Standing Order 47(a) says: "If the business of the States is not concluded by 5.30 p.m. the Presiding Officer shall at that time invite Members of the States to decide whether to continue, adjourn immediately, to continue on the next continuation day of the meeting or if there is no continuation day agree other things. The proposition for an adjournment was put at 5.28 p.m. so I think it is open to me as Presiding Officer to invite a proposition either to continue or to adjourn. Your proposition I understand, chairman, is that we should now adjourn. **[Seconded]**

**Deputy P.V.F. Le Claire:**

In seconding that I would like to make one very, very short - about 3-foot high short - submission. I cannot arrange childcare within 5 minutes, I cannot do it. So there is a vulnerable child in my case.

**The Deputy Bailiff:**

I am sure we are not going to have a debate about whether we should adjourn. Would all Members in favour of adjourning at this stage show. Against. We will take the appel.

**Deputy M. Tadier:**

Before the appel can I ask for some clarification? I think it is valid, is it not? Presumably if this is a split vote like it was before, say 23/22 and then the 22 decide to leave making us inquorate where does that leave us? If the Assembly goes inquorate tonight, if this is not carried, where does that leave us?

**The Deputy Bailiff:**

The position is if the Assembly goes inquorate it will be at an end for this session so it will not continue tomorrow.

**Deputy M. Tadier:**

Will those propositions be carried over to the next sitting?

**The Deputy Bailiff:**

They will have to be carried over to the next sitting. So, I invite all Members to return to their seats. The appel is called for on whether we should now adjourn. The Greffier will open the voting.

<b>POUR: 36</b>		<b>CONTRE: 11</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Senator P.F. Routier		
Senator B.E. Shenton		Senator P.F.C. Ozouf		
Senator F.E. Cohen		Senator T.J. Le Main		
Senator J.L. Perchard		Connétable of Grouville		
Senator A. Breckon		Connétable of St. Clement		
Senator S.C. Ferguson		Connétable of St. Peter		
Senator A.J.D. Maclean		Connétable of St. Lawrence		
Senator B.I. Le Marquand		Deputy J.A. Martin (H)		
Connétable of St. Ouen		Deputy of St. Ouen		
Connétable of St. Helier		Deputy E.J. Noel (L)		
Connétable of Trinity		Deputy A.K.F. Green (H)		
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy G.P. Southern (H)				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Deputy Bailiff:**

The States stand adjourned until 9.30 a.m. tomorrow.

**ADJOURNMENT**