

# STATES OF JERSEY

## OFFICIAL REPORT

FRIDAY, 18th JULY 2008

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

### **PUBLIC BUSINESS – resumption**

#### **1. Draft European Communities Legislation (Implementation) (Bovine Semen) (Jersey) Regulations 200- (P.43/2008)**

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

There is no doubt that producers want to ensure a long term future for the industry but equally no doubt that the community's financial benefits of using imported genetics begin to outweigh the cost after approximately 7 years. What I would like Members to consider though is the other part of the equation. As I said before, although genetics will play a part in improving the yields and thereby the economies that are derived by the producers, one must not forget that the Island presently enjoys a closed milk market. This is unlike almost anywhere else in the world where dairy producers are required to compete with other producers from other parts of the world. Much mention has been made of the Promar report but in the Promar report clear warnings were given. One was that if milk was to be imported the farming sector would be put under severe pressure. They go on to say the industry would go into freefall in its current state. Government objectives of brown cows in green fields would be thrown into turmoil. They go on to compare the price of U.K. (United Kingdom) milk with the Island and they suggest that if this happened, importation would cost Jersey Dairy about 50 per cent of its market immediately with residual local loyalty being the maintaining factor. In the Promar report equally it speaks about the strategy.

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

Deputy, if I may say so, Members have this report in front of them. They do not need to have it read out to them. [Aside] I beg your pardon. I thought that the Deputy was referring to the Scrutiny Panel's report and extracts from that. I may be wrong. I beg your pardon.

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

No, Sir. In the Promar report they spoke about the development of an export industry. I acknowledge that efforts have been made by the dairy to further this. However, it also goes on to say that it is not advocating a cut in milk production which we have seen in the past 6 months and also that if this cut happened, it would have an effect on developing that export market. It also suggests that this should be established before the milk importation begins. For all these reasons I question the timing of this proposal. If we are to encourage our dairy industry I believe that we have already shown - albeit delayed - a definite support for the industry in the latest decisions that we have made to enable the dairy to relocate to Howard Davis Farm. Equally it is very clear that this Assembly continues to support and subsidise our industry. It is also clear that no matter what we do we are unable to influence individual producers to remain in the industry. This is obviously down to individual choice. What I would say - which is of a concern to me and it has been drawn to my attention in the last couple of months - is that there is some difficulty with new entrants entering the industry. I have a letter from the Jersey Dairy to a new producer who has been asking whether it would be possible to sell his milk to the dairy. It is clear that this is not as simple as it might seem. If we are to promote the future of the industry and enable new producers to enter it surely we should also expect and require our dairy to enable this to happen and not put obstacles in the way. I acknowledge that we need to protect the existing producers but equally we should expect that new entrants are encouraged and enabled to enter and play a part. Going back to the original point, and it cannot be emphasised enough, we do have a closed milk market. What is being proposed today and the view has been reinforced by the Scrutiny Panel is in fact that if semen importation is allowed in, a material defence against liquid milk imports could be removed. As has been stated before this is something that we cannot reverse. I suggest Members should consider these points before supporting this proposition.

##### **1.2 Deputy S.C. Ferguson of St. Brelade:**

The agricultural industry is always described as being very conservative. This is obviously true as according to the report the quality of the heifer is defined by the quality of her sire. This is perhaps an outdated approach according to what they are doing in Guernsey but I will return to this. I am glad Deputy Reed mentioned the young farmer. I, too, know of this particular instance. It does seem to me that there is a closed cartel operating and this perhaps needs to be attended to. Deputy Duhamel mentioned the retail price of milk in the U.K. I checked on the price of Gold Top which is Jersey milk per litre. It is 99 pence in the supermarkets. The cheap milk that everybody is quoting is the thin blue low quality product imported from Eastern Europe. Deputy Gallichan expressed concern over the widespread use of hormones. I have noticed a significant increase in the number of dairy farms in the U.S. (United States) - Jersey dairy farms - selling milk free from all such additives. Deputy Le Fondré was somewhat disparaging about a scion of one of the most distinguished breeding families. I would point out that it is not always possible to follow a preferred vocation but that the particular pedigree is alive and flourishing in the west of the Island. I have also been told to remember the pig industry. I think this is certainly before my time and I think it is even before the Bailiff's time, with respect, Sir. Apparently the market was opened up, a fair amount of money was made quickly but the industry collapsed. I think possibly the industry may have been its own worst enemy. We have heard that the Jersey Bull Proving Scheme failed because of lack of support. Obviously sterner measures were required but that is perhaps crying over spilt milk. Sorry about that. If this proposition is passed, the R.J.A.&H.S. (Royal Jersey Agricultural and Horticultural Society) states there will be advice for farmers regarding which particular semen to use. Frankly and with respect to the R.J.A.&H.S. they really do not have the scientific experience or scientific knowledge to provide the sort of advice that is needed. There should be a proper scientific breeding programme with a strong, independent adviser whether or not there is importation. At the same time it does seem from what is being said that there perhaps should be a proper analysis and D.N.A. (Deoxyribonucleic Acid) assessment of the existing stock of semen. Doubts have been cast on the quality of this stock but I am hearing from other corners of the industry that it should have really an exceedingly long shelf life, possibly of 40 years. I have been told that the motto for the agricultural industry is "breed, feed and weed". The report mentions this in the competence of management. Other speakers have mentioned the quality of silage. As for weed, much has been made of the culling; 700 calves a year or something like that. Perhaps I can read extracts from an industry email. A farmer from the U.K. wants to buy as many heifer calves as he can get and has already bought 30. He seems to be paying £800 for an 8 month old animal. Why are we culling when there is a market? I have a concern with the possible introduction of rogue diseases. I notice that there was a considerable problem in Australia last year due to a prize bull called Manhattan. He was such a prize bull everybody wanted to use him and then of course they had trouble with calves that could not stand up. There is also the possibility of using semen from an upgraded herd. Can we really be certain that importation of semen from a herd upgraded from Holsteins will not occur? Then we are told that the U.S. cow is only one inch longer than the Jersey Jersey, but one moment, that is only one dimension. There is a volume to be taken into account so that your inch - what is it - higher or longer or whatever will be a volume of a cubic inch. That is quite a different kettle of fish. Interestingly one of the main selling points of the Jersey is that it is smaller than the Holstein. Conversely, anyone breeding up may well be faced with a complete revamp of their milking parlour, but that presumably is something that they have taken into account. The Oklahoma Jersey Cattle Association says American type Jerseys are noted more for production than for show. They are larger, coarser and have been bred for years for those qualities which suit them for production. The panel suggests that importing semen is the most realistic strategy for relatively small independent operators. Who are they referring to? Not perhaps the larger herd owners who are watching us. It seems to me that it is the young farmers operating in the relatively small, independent operators of this section of the industry; the 47 per cent of the industry firmly against importation. As for the traditional herd concept, it is a lovely thought but come on. If it is necessary to compete and import then everyone will import, human nature and economic conditions being what they are. I was concerned that the report ignored any

of the salient financial facts regarding Guernsey. However, having read the World Guernsey Cattle Bureau papers I can understand why. Members might be interested to know that the worldwide numbers of Guernseys has fallen to such an extent that there is now a worldwide breeding programme to make sure the breed does not die out. It is a different method to using proven bulls. If anyone wants to look at the details they are on the website. But they are using teams of young bulls selected on a merit index and used sparingly and at random in order to spread the genetics of the highest merit cows across the breed. It seems to me that if they were allowing the importation of semen it was because they were faced with a declining market as opposed to the Jersey market which is flourishing. I am not sure that we should even contemplate comparisons with Guernsey. Like most Members I am torn on this. We have an industry which in terms of numbers of farmers is split down the middle. We have a significant problem, as Deputy Reed has emphasised, with the possible importation of milk. The report suggests a palliative measure of a traditional Jersey herd but we have apparently a consignment of semen sitting in the wings which it is said is not all Jersey semen. Belgian Blues have been mentioned. Blue cows in green fields anyone? However, if we lift the ban we have crossed the Rubicon and there is no going back. I ask Members to think very carefully about this.

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

This is one of these very, very difficult debates and decisions that places us in a position where whatever we say and whatever decision we make, we are going to be upsetting one section of the community. I have friends and acquaintances on both ends of the field. **[Aside]** At the outset I would like to apologise to those ones that I will be upsetting when I do vote. I do hope that they will appreciate that many of us have given a great deal of thought to this issue. We have met lots of people. I have to say I have met some great people; some are in the gallery today and some I have met on the farms and enjoyed the experience and had a very enlightening time trying to find out as much about it as I possibly can. I have to say that I have moved positions quite considerably and several times on this, back one way and the other, over the period. It has been a very, very thought provoking process. But I think yesterday I heard a speech which really helped me. I think it has helped me to come to a decision which I need to come to. That was the speech of the Constable of St. Ouen. **[Approbation]** His experience and understanding of the industry was enlightening to me. His clear and concise practical portrayal of the way forward for those dairy farmers who want to improve their cattle by being able to utilise imported semen. I understood that issue by the way he explained it to us. Then on the other hand he also explained how for those who wanted to maintain their position of their herd by not introducing semen, that that could be controlled by the use of the R.J.A.&H.S. herd book. They could still control it and still feel that they were able to have their pure herd within the Island and the other people of a like mind. I will leave it at that because I think I have come to that position now and I believe that I have heard sufficient and learnt enough about the decision I need to make. I will be supporting the proposition.

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

I shall be brief and state that this morning already - it is 9.58 a.m. - my breath has been taken away. I was amazed to hear that the Deputy of St. Brelade, Deputy Ferguson, say that she apparently knew more than the R.J.A.&H.S. about breeding **[Approbation]** Jersey cows. While I may accept her word than an inch does make a difference in some things, I am not sure that I would take her word on this in the matter of breeding Jersey cows. Briefly, I came under the influence yesterday of the Parish of Trinity. I heard a very passionate speech by the Deputy of Trinity suggesting that the purity - the 200 year-old purity - of the Jersey cow was an icon to be saved at all cost. That was put somewhat into context by the fact that the Deputy of Trinity earlier in the day had been arguing that agricultural fields should be built on in Trinity and arguing very strongly. The influence coming from that direction was somewhat weakened. Instead I had a brief conversation with the Constable of Trinity in the coffee room later on. He put the issue very simply. He said: "Here I am. I used to have 80 head of cattle; 80 cows. I put them all out in the field at the same time every

day. I bring them back to milk the same time every day. I feed them the same amount of cake day in and day out. Yet one cow produces twice as much milk as this particular cow over here.” What is that down to? It is down to genetics pure and simple. In that experience of a dairy farmer lies the nub of the argument, genetics. I shall be voting for this measure.

### **1.5 Connétable S.A. Yates of St. Martin:**

What is my knowledge of the Jersey cow? Absolutely zero, Sir, but I know they are pretty and they are part of the Island of Jersey. What is my experience to talk on the Jersey cow? It is in fact the intense pride of this Island of ours. My great great great grandfather came to Jersey in the late 1700s, probably just after the time when the Island herd was closed off from importation. He came over here to help to build Fort Regent and the fortifications so I have a certain amount of genetic feeling for granite. I have a feeling for the shape and the feel of this Island and I have a feeling for the Jersey cow because it is iconic. But the breeding of the Jersey cow, the milk production of the Jersey cow, I know nothing. I infact am sitting here listening to the arguments. I am listening to the debate and I am trying to balance what I am hearing. I feel that I should take part because I am a Jerseyman. I have read the Corporate Services Scrutiny Report which I think is a very good, balanced report. You can imagine that reading the report, my pride in certain parts of the Island - Jersey cow - has taken a bit of a dent because world experts are saying that Jersey bull semen, they do not want it. It is the bottom of the heap. The other thing that shocked me is this estimated cull of Jersey heifer calves amounting to about 700 calves a year. I think what a waste. Why can they not use them? There is no market. There is no demand. They do not want them. I was shocked to hear of a Jersey farmer who took the herd from Jersey over to England and also purchased a herd in England and found that the Essex cows produce 50 per cent more than the Jersey cows. That is a surprise to me and it dents my pride in this Island. The debate so far seems to be a balance between the negative and the positive. It seems a balance between ifs and whens. If grandfather knew, he would be turning in his grave. If we allow this to happen it is the end of our heritage. It is the end of purity of the Jersey cow. If we allow this to happen milk imports will follow as a matter of course. If we allow this to happen there is no going back. From the other side of the argument we have the whens. When we can import genetics we can regain the value of the heifer calves. There is a market for purebred Jersey heifer calves; heifer calves with a pedigree that are wanted. They are wanted throughout the U.K., throughout Europe, perhaps throughout the world. When this import of genetics happens, we can regain the status of the Jersey herd. We can improve the breed. We can improve the efficiency by reducing retail prices. I know nothing about how you breed a Jersey cow, I just have a feeling of pride which I want to regain, Sir. I am going to be listening to the rest of the debate. I think probably I have a feeling towards the whens rather than the ifs. I think, Sir, probably that is the main thing. We have to try and do the best for the Jersey farmers. We have to try and do best for this Island. I hope to regain my intense pride in this Island and the Jersey cow.

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

Sir, can I raise the défaut on the Connétable of St. Helier please?

### **The Bailiff:**

Yes, I propose that the défaut on the Connétable of St. Helier be raised. Those in favour? Those against. [Aside] And the défaut on Senator Syvret? Against? Both défauts are raised.

### **1.6 Connétable G.F. Butcher of St. John:**

I do not intend to repeat what a lot of other people have already said in this House as seems to be often the case in a lot of the speeches, Sir. I can honestly say that on this particular subject I have had more phone calls at my home even than I got from field 605 in St. John. This was even before the panel was formed. Let me state for the record that the panel have not always been in agreement on this particular subject. From the beginning of this review, Sir, I have always stated that I felt the review was being rushed in terms of the size of the subject and the implications involved. There



has been a lot of pressure from the R.J.A.&H.S. to the Chief Minister, the Chief Minister on down to Scrutiny, Sir. I tried to get the Chairman of the panel to push for a delay to allow a little bit more time because we were in a situation, Sir, where many of us could not all get to the meetings at the same time because of time constraints and other commitments. The Chairman decided against that, Sir. I think part of his decision-making process was that he did not want Scrutiny to be seen as delaying tactics again, Sir, as is often the case that comes from the ministerial benches. We are where we are. The review has been rushed in my opinion, Sir. It may be that a rushed review might end up with a result that the industry do not want but we shall see. The vote of the R.J.A.&H.S. in approving the importation is only 53 per cent majority. That is quite small. I have to wonder, Sir, looking at the production of the various herds that are involved with the element that voted for this, I do not think at this stage we should be taking into account how many cows they control. It should be the person. That would be rather like saying in this House, Sir, people with a bigger constituency should have more votes. I do not think that should be the case, Sir. I think it is one man, one vote. Analysing the herd, Sir, in the production we have quite a disparity in the volumes of milk. The best producers in the herd are producing about 4,750 litres. The lowest are producing about 2,950. That is a staggering 1,800 litres, Sir. I wonder, being the sceptic that I am, whether importation has been seen as a panacea for those less efficient farmers, shall we say, to increase their profit, Sir. Therefore, they join the 53 per cent. I have to wonder whether that might be the case, Sir. If this vote goes against the industry I do not believe, Sir, that the industry will disintegrate. There is talk some farmers will probably leave to industry. Who is to say, Sir, that the no camp will not increase their herds to fill that gap? The one thing I am certainly not very comfortable with in terms of actions that the dairy has taken in signing a heads of agreement to sell the land; I believe that that was done on the basis of creating pressure on this Assembly. I do not think it needed to be done at that particular time. I think there will be developers queuing up to buy that site in that particular location. Another thing that has always puzzled me during the whole of this review, Sir, is the fact that it is the younger farmers that do not want change. That surprises me. In every industry that I have been involved in in the past, Sir, it is always the other way round. The youngsters want to be innovative and do different things, Sir. There has been much said in the Assembly, Sir, regarding the 700 heifers that have been culled. I heard last night from somebody that the R.J.A.&H.S., Sir, have been approached by a Scottish farmer that will take all the heifers that they can produce. Perhaps I can get some clarification from the Chief Minister on that. I am sure he can get the information from within the building, Sir. On the genetic side of things, Sir, if I was asked the question: "Will genetics improve production?" Yes, of course they will. That is proven, Sir. I do not have any problem with that at all. In Deputy Southern's speech, he indicated that the genetics are already here. There are cows that are producing well. You wonder if there is an issue there. The question is, Sir, should we be importing? That is for Members to decide. Whatever they decide, Sir, remember you cannot turn the clock back. I am going to vote with my conscience, Sir, and I am not looking to persuade Members to vote one way or the other.

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

My Parish is essentially split on this proposal. It is very difficult for me to make my mind up. While on the face of it one could say that a background in maritime activities does little to qualify me in matters to do with bovines, I can, Sir, lay claim to having attending courses at the Howard Davis Farm and achieving a rather undistinguished second class pass in cattle foods and feeding and dairying in the U.E.I. (United Educational Institutes) examinations held in June 1970. This is the first time I have shown this bit of paper to anybody, Sir. **[Laughter]** My philosophy regarding the commercial aspects of dairy and any other business for that matter is that its organisation and management is best left to those who understand and know it best, namely the cattle owners and breeders themselves. I have listened to the excellent presentation from the Chief Minister. A bit schmoozy for me but you have to remember that he has a background in advertising sales and newspaper deadlines. The Scrutiny Panel has received a well deserved pat on the back from the Chief Minister, however, I detect a degree of rushing. Deputy Ryan's style is definitely stamped on

the recommendations and conclusions. Methinks his mind was made up at the start. I was pleased to see the cattle at the West Show last week and discuss the situation with those present. I have to admire a well known cattle owner based in St. Peter for his entrepreneurial efforts towards diversification in the face of a changing marketplace. I wonder, Sir, whether others should not learn from this. I am deeply concerned about the apparent conflict with the industry to which my colleague has just referred, particularly with the 53 per cent majority within the R.J.A being simply not enough. I too, Sir, discount the 75 per cent cow owner element as being simply a manipulation of the smaller herds by larger businesses keen to get their own way. We have seen the evolution of the potato industry and the effects on the countryside and small proprietors. I am full of admiration, however, for those whose chosen way of life obliges them to milk their cows twice a day, 365 days a year, summer and winter. It requires total commitment and does not suit everyone as has been evidenced by people with strong family farming connections moving on to less demanding jobs. Once again we have the effect of our successful and profitable finance industry permeating through the fabric of our society and consequent ramifications. If you can earn twice the money for half the effort no one can be blamed. A good argument exists, therefore, to make the dairying industry more profitable. It has been said that this proposition is a last ditch attempt by some to revive failing businesses and that it is, but a short term solution which will have unwanted consequences in Jersey. I ask whether the risks are justified. The projected figures are not in my view terribly convincing from the dairying side and the export market is now for us an unknown quantity in that regrettably we would be starting from a zero position. The risk of milk being imported appears to be high, Sir, and therefore a threat to future sales from the Jersey dairy industry in general. The Scrutiny Report refers on page 24 to the questionable nature of import restrictions and the liability to future challenge. Food retailers are driven by the bottom line and are certainly not the appropriate agencies for protecting our local herd. They may give it lip service but do not expect any more. I refer to the panel's conclusions on page 25 of their report. I have to question how the industry has been run over the last few years. We have experience of what has been alleged to be an inefficient dairy. We have seen herds subsidised out of the market to reduce the Island's quantity of milk. Now we are hearing that if we do not agree to this we will have a shortage of milk. I for one do not like veiled threats and, based on past performance, question whether we should be interfering with what has clearly been a volatile industry. I have concern over change in the countryside. If this is passed, Sir, we will see different breeds. We are well aware that there are very independent minds in the farming community. I have no doubt that they will alter their parlours. They will alter their methods to suit whatever interests them. We will see a different colour in the countryside. Having focused on the negatives I can understand that we have moved on from the multiple small herd situation that prevailed in the past. I am trying to divorce myself from sentiment in this issue, particularly because it is my experience that sentiment in business costs money in the long run. We now have generally large herds with large overheads and no doubt, in some cases, large loans. I give credit to those who wish to improve their business whether it be by improving the efficiency of their cattle by breeding or feeding or diversifying as some have done. No business can stand still. If it stands still it goes backwards so the option of no change simply does not exist. The proponents of this proposition must understand, however, that we in this House have to look beyond the need of individuals and view the effects of a decision on the Island as a whole. Several breeders have suggested that people these days have lost the ability to breed cattle and there is absolutely nothing wrong with our cows. Comparative figures with overseas herds do not bear this out if, of course, one wants to use this as a comparison. Many businesses, especially smaller ones, rely on a series of income streams in order to survive. This has always been the case with Jersey farmers. One year the dairy might be up but the potatoes will be down and vice versa. I think it is important to take a long term average concept rather than respond to the purported crisis management scene which has been put before us. I have no doubt in my mind that the conclusions of the Scrutiny Report that refer to the necessity of retaining a separate herd book for those wishing to retain a pure Jersey breed are paramount. I am comforted by the

Chief Minister's comment in this regard. I, Sir, await the Chief Minister's summing up with interest.

### **1.8 Deputy A.D. Lewis of St. John:**

Much has been said just recently about the economic argument. I would like to labour on that a little bit if I may. Having said that, Sir, I live in St. John and I pass by a couple of herds each day on my way to work. It is a scene that I enjoy, as do many Islanders and many Members of this Assembly. Sir, the thing about this whole process that struck me most was when I went to the R.J.A. and met with their members, some of whom are in the gallery today. What struck me particularly was their passion for what they do, their passion for the Jersey cow, their passion for the industry. I found it very difficult to believe that they would want to do anything that would damage that because they were so passionate about what they do. But farming is a business, Sir. It is a lifestyle too, but it is a business. I was born in Jersey but my grandfather was not. He was born in north Wales. He was a farmer in north Wales, as was his grandfather - my great grandfather - and they farmed root vegetables and pigs for the lucrative markets that were in Liverpool, Manchester and Chester. But, Sir, between the wars the economy was not that great. But they had a business in farming and they had to survive so they diversified, but in the end it got a bit too much for my grandfather. He upped sticks and he went to London and entered the building trade because he could not make a living with his father and his 6 brothers and 6 sisters on the farm. That is the economics of farming. It is a business but it was a lifestyle too. He did that with heavy heart and ended up running a hobby farm in Jersey when he retired. But it was a business. The people in the gallery run businesses. The farmers of Jersey are businesses but it is a lifestyle too. If we have a ban on milk imports then, of course, that is great for the Jersey herd and that should continue, and I hope it does. But if the numbers of herds, the number of cows in Jersey drop, which the report suggests that could be the case, then there is clearly a risk of importation if we want to meet the market need. There were some telling comments and quotes in the report. I commend the Scrutiny Report. I think it has certainly helped me in my decision-making process because I have had many parishioners say similar to me, as have said to my Constable; concerns about the change that may happen in our countryside. But I think the change could be a lot worse if we do not take note of what is in the Scrutiny Report and what has been said in today's speeches, but we should approach it cautiously. I do believe that is exactly what is happening. It is not a rush into it. This has been spoken about for many, many years in the farming industry. Around us it has happened already and Guernsey has been mentioned on a number of occasions in this debate. But on the subject of Guernsey there is an interesting remark that came from my colleague on my right about the Guernsey herd or the Guernsey breed not necessarily being the great success that it would be claimed it is because of the importation of semen. She was talking about the worldwide drop in the numbers of Guernseys. Sir, my understanding from the presentation that I attended at the R.J.A. is because the Jersey breed globally, except in Jersey is such a good producer of high quality milk that it way exceeds the quality of the Guernsey herd. Consequently the Guernsey is declining in favour of the Jersey. That is my understanding. One of the telling quotes in the report that got me too was one from Canada. I think it has been mentioned in somebody else's speech today already. It was that Jersey Island bulls are absolutely bottom of the heap. "Our people would not give any consideration to using semen from the Jersey Island bull." In everything else, Sir, in Jersey we are striving for the best: the best finance industry, the best education, the best health. Yet we have not got the best genetics in our icon, the Jersey cow. I find that quite strange for an Island that wants the best of everything and in many instances gets it through sheer hard work and determination may I add. The quote goes on to say they could not buy the semen from Jersey because they simply have to be profitable dairy farmers. In other words they could not be profitable dairy farmers without the best in bovine semen. In all of that telling fact, and I do like to base my decisions on fact rather than emotion although I accept emotion comes into this argument, U.K. herds - talking again about the economic argument - 30 per cent of their income comes from the sale from stock sales. When they have a strong genetic herd they sell 30 per cent of their herd. That income in

stock sales is 30 per cent of their income. Again a compelling economic argument but it should not be the only argument. I am not suggesting it should be. But coming back to the early part of my speech, these are not hobby farms. These are businesses. People want to survive in them and keep going and keep having profitable business so they can keep their cows in the fields. The Constable of St. Ouen's speech did it for me too. It was an explanation of somebody who has been in the business, come out of it and had some telling comments to make about it and about its future. That helped me a lot. But another statement that was made during the Scrutiny process was from Mr. Perchard, a world renowned name across the globe in terms of the Jersey cow as many of us will know, so I took his comments with respect. He said job satisfaction can only go so far and profit has to figure somewhere in the equation. It is a misguided and dangerous view that Jersey will always have dairy farmers come what may. I have a surprise for people if from the comfort of their armchairs or in St. Helier offices delude themselves with the view, and I maintain that the industry has never been more vulnerable than it is now. Whereas from the comfort of our armchairs and our offices we sit, we drive past the herd occasionally, we think they will always be there. Mr. Perchard was saying you are deluded if you think it will still be there if things do not change, if we do not move forward. That to me was a very telling comment. But another quote that also got me, and it has so much truth in it - and this is from the other side of the camp and it is from Deputy Juliette Gallichan - she said the Jersey cow is a lot more than just a machine to convert grass into milk. It is a symbol of Jersey's success, which is what I mentioned earlier of the way in which a small Island can influence the world and that culturally it belongs to every Islander. Perhaps that view, that vista of the Jersey cow in the field, is part of our culture. Yes, we all like to take ownership of that vision, that view but, I am sorry, the cows belong to the farmers. The farmers have to make this pay. They have to survive and they want to pass their businesses down to their children and in some cases they have sons and daughters that want to but in many cases they do not. I cannot see the well educated people of Jersey today, who are the sons of daughters of farmers, will look at the economic arguments and be driven to that farm if we do not change. That is the fear for the future because these farmers would like to pass those businesses on to their children but at the moment some of them understandably have severe reservations about taking that plunge. Sir, there is evidence that is compelling that suggests to me that this is the right thing to do. There is passion on the other side and fear and concern which we have to take into account. But on balance, Sir, on the swot analysis as we say when you are running a business - and these are businesses - says to me stacks up in favour of importation. That is the evidence, Sir, and I would urge Members to look at the evidence. The Scrutiny evidence which we get told all the time you must look at, it must happen. It has been done. It is not a biased report by any means. The Chief Minister said that in his opening remarks. He said his speech should be long because he wanted to give both sides of the story as best he could and he did that very well. I think the debate has aired those concerns today but on balance the evidence is that we should allow those businesses to move forward and remain in business so we still have that iconic Jersey cow in our fields. There is no evidence in here that tells me that will not continue to happen but there is evidence that suggests to me that we may lose those numbers if we do not move forward. I would urge Members to base their decision not just on passion and emotion but on the facts, the evidence and the economic argument too which is strong.

### **1.9 Deputy C.J. Scott Warren of St. Saviour:**

I have agonised over this decision and I, like the previous speaker, feel that this decision would have been better taken in when we resume in early September. I am, Sir, aware that both sets of opinion and concerns are very real and both in different ways are valid. This makes the decision all the more difficult. I was going to quote the quote given recently by the Deputy of St. John to the Scrutiny Panel by Mr. Gammon. Another thing that concerns me in the Promar report, the quote that at the moment half of all calves born are Jersey bull calves, most of which are disposed of at 24 hours of age. In all at the end of that quote it says: "Currently this amounts to approximately 2,000 newborn calves per annum that are disposed of in Jersey." The decision is all the more difficult, as

I have said, because of the divide in the industry and because both sets are of opinion there are real concerns. But, Sir, I have come to the conclusion that in the interests of the future of the Jersey cow and the future of the dairy industry I must give this proposition my support. **[Approbation]**

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

There have been some very good speeches. The Constable of St. Brelade's as well as the Constable of St. Ouen's were a great influence, as was the Deputy of St. John's. I think there has been a lot of nostalgia spoken, largely by Deputy Baudains about the great committee system. It seems to have been a theme of his. Deputy Hill and I were on the old Agricultural Committee and we struggled on the potato issue with all sorts of voting systems to reflect the influence. Should we go by acreage or vergées? Should we go by people, as the Constable of St. John mentioned; just as people, just as farmers? We ended up with the most complex of voting systems which would have solved the Serbian problem I think had they been applied. But they never did solve the problem. We got totally stalled on the politics of the situation. Our attempt, Sir, to set up an influential group of small farmers who could be a counterbalance to the large potato growing monopoly, which was then seen as emerging, failed. The economics unfortunately led increasingly to the power of the bigger group, although we were not at that stage to anticipate that the bigger group was to mutate, so to speak, into 2 groups, but nevertheless of enormous duopoly power. I think I see the same in the dairy industry where there is the struggle between trying to keep the smaller dairy farmer in existence because of the tremendous emotional impact of small herds and this fear of so-called factory farming which people see as growing. But unfortunately, Sir, as has been said by Deputy Duhamel but I think in the wrong way, farmers live in an incredibly tight economic environment. Unlike what the Constable of St. Brelade said: "Leave them alone", the problem is this Government has interfered from almost the year dot when it stopped the importation of French cows. It has interfered with the industry and the reason I think - and it is said, I think, in the McQueen Report - why Jersey ended up in this total mess, which was looked at by the last of the Agricultural Committees, was that our grant system had become utterly perverse and what it had encouraged was massive growths in herds, massive over production and massive pressure on the countryside as a result. Then we had to do, Sir, a quick U-turn and offer this unbelievably expensive - I think over expensive but it is history for the moment - exit policy to try and radically reduce a number of the herds and then, of course, give people the impression, which was totally misleading, that we did not know what we were doing. Those were some of the crazy economics which we put farmers under pressure with; some of the crazy economics and the conclusion one can draw from that, Sir, is it is amazing anybody is left and it is amazing that they have managed to work their way through this absolute farrago of government mis-control, government mis-attempts, based on the finest of motives, to encourage the industry. We have ended up in a situation, Sir, where it is quite likely one could argue that the industry is almost past the Last Chance Saloon. It is almost past it because we are seeing very, very few - we have one excellent example who, as people have said, is in a sense a contradiction to the arguments that some of us are running - we have one excellent example of a young entrepreneurial farmer. We have the whole system of succession through the family into farming is virtually coming to an end, sadly, unless we can really pull something out of the hat in this debate, and we have farmers who are symbolically, Sir, waiting for us to make this decision. To those who say: "Let us wait after the summer" I can well see why they may be saying that but the point is, Sir, it has been people's experiences of States debates - not only this debate - that the longer the debate goes on, unfortunately, does not mean the greater sum of human knowledge is added to the debate. In fact, the States operate on exactly the opposite principle; the longer the debate goes on the greater the confusion, the greater the chance for obstruction of various kinds and the greater the build-up of frustration. That tends to be the first rule of debate in the States and that is one we have honed almost to an art form. So, what we have, Sir, almost the whole industry is, quite frankly, on the brink of disappearing; it is that serious. We even have slurry applications held up because farmers, although they are getting very generous grants for slurries, they are saying: "Is it worth my investing in the industry?" We have 15 applications held up at the moment while they

await the outcome of this particular debate. The irony is, Sir, if farmers were truly as mercenary as the form of economics that Deputy Duhamel referred to, if they were as mercenary as he said, they would get out immediately, convert their buildings to holiday accommodation or to rent-to-let or even for lodging houses, dare I say. They would convert their buildings and get rid of this total mess and this total mishmash of life under which they live. That is what they would do. So, to say that they are being run by mercenary economics is utterly, utterly misplaced and what the economic situation has done so far in agriculture - the high cost in Jersey because of the cuckoo in the nest of the finance industry mentioned by the Constable of St. Brelade - what it has done, of course, is it has squeezed out a lot of the diversity. At the last count, I think, when the Agricultural Department did an analysis there were about 29 crops had been tried in the cause of diversity and virtually none of them - we have courgettes hanging on a bit, we have tomatoes hanging on, but essentially because of the crazy economics against which the farmers are currently working and against all rationality, are managing to keep alive, but it is almost that bad - because of these crazy economics all these diversity crops collapsed one by one by one. The other irony is, Sir, I heard Deputy Pryke say yesterday how she likes to drive past green fields and I was about to say: "And see over 55 housing developments" **[Laughter]** but here she is, Sir, arguing - I think, on rather specious grounds but in any case she argued and she won - here she was arguing the need for change and how if you stand still you are essentially going backwards. Yet yesterday, Sir, she was arguing the nostalgic case; you know, we must have these cows frozen in aspic, in nice little herds, which is wonderful on green fields, just the ones that I have not built on with my over 55 developments. It is that contradiction, Sir, that runs through so many of the arguments and if you are going to concede, as Deputy Pryke did the day before yesterday, that we need to move ahead even though it is exceptionally painful and goes against some of our dearly beloved values, which it did - if you are going to argue that then you have to be generous and charitable in considering the arguments that are coming from large parts of the dairy industry. I do agree, Sir, it is a risk, as Deputy Ferguson said, once you have crossed the Rubicon, that there are, in my view, sufficient defences. They are by no means impregnable, I am afraid, because that is the nature of the world and the imported milk issue has not been resolved but if you read between the lines of the advice that the Defra (Department for Environment, Food and Rural Affairs) lady gives here, it is strange advice because the last complaint did come from - in 2001 my constituency - but if you read between the lines the feeling I get is if you push the issue you might get an answer you do not want. But if you are landed up with having to argue the issue then argue it on the basis of genetics. Do not argue it on the base of economics of milk distribution, or that is the feeling I got reading her advice in the Scrutiny Report. There is no doubt, Sir, it is the elephant in the room but I do not think you can assume that if genetics are let in therefore milk will be let in from the UK. I do not think the 2 things follow. The Deputy of St. Mary, Sir, was suffering unaccustomed doubt because she is usually a very decisive person, by her own estimation, **[Laughter]** and what she did say, Sir - but it is a good estimation, I hope - what she did say there were all sorts of gaps in knowledge and were we making the right sort of comparison? I was quite surprised that she did not make that the basis of her submission to the Scrutiny Panel and say: "Look, the basis of your scientific knowledge or how you are comparing the productivity of the Jersey cow, vis-à-vis cows in other countries, that basis is wrong." Why did she not argue that or why did she not bring scientific studies forward which have made different kinds of comparisons and reached the conclusions which she, in a sense, wants to be reached? Why did she not do that? I did not feel that that evidence was strongly presented. I thought she put quite good holes in the opponent's case but she did not take it forward. So, Sir, I have, like everybody, like the Constable of St. John, I have had enormous pressure. It is an industry I have considerable sympathy for having struggled on the Agricultural Committee not that effectively, sadly, when we tried to save agriculture, so to speak, against these enormous economic forces and we only managed to do that to an extent. I think we will rue the day if, under the control circumstances and they are not perfect - and, quite frankly, I do not know where you can get a perfect decision in this respect - we will rue the day that we allowed these people to operate in the system of crazy economics which they should not be operating in now, because I am almost of

the belief that it is utterly irrational, the situation. But if we do not put out a lifeline in this respect and allow them to move forward, I think we are surely sounding, sadly, for both the small and the large farmers, we are sounding the death knell of the industry.

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

Sir, I wonder if - am I allowed to clarify a quick - I would just like to say my submission did contain information and questions about exactly what the Deputy said, Sir. My whole point was that the process was so much, that there was so much information that was not taken into consideration. Thank you, Sir.

**Deputy R.G. Le Hérisier:**

Sir, can I just clarify that the Deputy has [Laughter] scientific references to other studies that prove different conclusions.

**1.11 Connétable T.J. du Feu of St. Peter:**

Sir, the Chief Minister stated in his preamble that there are strong views held on both sides of the proposal. Having followed the subject for some considerable time I do not think there can be any doubt now is the time when we have to decide the outcome. I would like to compliment Deputy Ryan and his committee for their reports which I think, as good as it is and as comprehensive as it has covered the subject, does show signs of a little speed and haste in one or 2 areas. But, nevertheless, I still believe they have done a very open and sincere job on the subject although some parts of it, I must say, bear little reflection directly on the problem that we have to grapple with today. The E.U. (European Union) Regulations, we are told, are paramount and we have no choice on the matter. Well let me inform everyone that had past Members of this House taken that view we would not, today, be enjoying the benefits of the Ecréhous or the privileges of us being an associated member of the Common Market group. It is about time that some people in this House and, indeed, Island-wide, stood up to some of these bureaucrats which are, in some cases, ruining the whole ethos of the Island. The threat of farmers giving up their herds, in my opinion, is no more than blackmail; this from a group of producers and interested parties who have, the report states, received some £4.7 million. I accept that is not all the profit line by any means, but nevertheless, that is the monies that have been paid out. This is right out of the tactic manual of the large potato growers who have forced out the smaller growers. Our forefathers of many of today's supporters of this change must be turning in their graves at the change in Regulation; a change once made that can never be reversed. A complete departure from the generations of farmers who produced cattle, that were not only the pride of Jersey - they still are, indeed, I am certainly not going to state otherwise - but also the envy of the world, which no one - I repeat no one - could ever say that it was not the truest and the genuine Jersey article on the production line of livestock, and without any possible interference from any outside body. I do not believe that we have lost the expertise in cattle breeding within the Island, at least I hope not, but I feel that there is a little bit of a gap somewhere that perhaps has not been fully exploited. Notwithstanding what I have said I respect the rights of every farmer and milk producer to express their views of a preferred choice. This is one such case which we have been asked to decide. I do not believe that we should be swayed by the pressures of a new dairy being built on the back of today's decision. All I ask that the producers, whatever side you represent, accept that there will be a winner and a loser, and that afterwards everyone will work together for the benefit of the Island [Approbation] and not represent the bitterness which was taken by our potato-growing fraternity and, indeed, once that decision is made today, then build the absolute and total confidence throughout for the benefit of all. The trouble part which I find is contained on page 46, is a key difficulty of the decision that we have today and I quote the opening lines: "It is possible that if a ban on semen was to be lifted imported Jersey semen, in theory, could include rogue genes." So, this objection to lifting the ban on the importation of semen has a degree of merit. An absolute safeguard to this is not available. That highlights the risk we are taking today, Sir. I do not believe we should be taking that risk.

### **1.12 Deputy C.F. Labey of Grouville:**

One thing we can all be sure of, when debating things to do with the agricultural industry, we certainly will not be getting a steer from that industry as to which way to vote. They do this to us every time so we are left to make up our own minds and maybe that should be the case. But, if we are looking for an easy decision to look to one's Parish and see how one's farmers in that Parish, if there are any left, feel is a view to be taken and we have to consider all the facts we have before us. We have to take in the views and we have to do what we feel is right for our Island. I have read many, many reports, as this debate has been going on for some years, and I do not accept some of the arguments put forward yesterday about not having enough information, there not being enough detail in the Scrutiny Report. This issue, as I say, has been going on for years. The RJA&HS (Royal Jersey Agricultural and Horticultural Society) have given 4 recent presentations which all members were invited to and could attend as many as they liked. We were encouraged to ask questions and go back if we needed more facts. So, waiting for a Scrutiny Report to hit our desks and then claiming that it does not contain enough detail so a decision cannot be made is not, in my opinion, fair. It is not fair to the industry or to the Scrutiny members who have worked very hard to get this report out. Now, I appreciate that Deputy Le Hérrisier, my learned friend on my right, has probably attuned himself to think: "Oh, here we go, another traditional diehard speech from the Deputy of Grouville", as he often accuses me of being a traditionalist when I do not support his super constituencies and demolishing of the Parishes, and Members might be expecting me to sort of put on my culture hat and support our culture and heritage, which is exactly what I am going to do, Sir. I am going to support culture and heritage, but not by supporting the Jersey cow being remembered by photos and having relics in our museum, or polishing the many silver cups that sit in my mother's cabinet at home from a bygone era when the Labey family were noted breeders. There is no easy way to say that. The Labey family were noted **[Laughter]** - a bit of history. In 1866 the cow owned by William Labey, known as Baroness, was number 3 in the Jersey herd book. The cow families for which the Labeys were known were the Mabels and the Fontaines. They were highly productive cows and were much sought after by overseas breeders who came to Jersey and purchased them. But these strains have long since departed our shores for homes across the world and we have no longer got these genes in our population. So, Jersey has closed itself off to the world and as the Constable of St. Ouen said yesterday: "We have got off the carousel. We are no longer valued as cattle breeders of the Jersey cow." So, what does that say about the way we value our world-renowned Jersey cow. The nub of this issue is the diminishing gene pool. If this proposition does not go through today, more farmers will be giving up, reducing our gene pool to almost unsustainable levels in our closed population. The Deputy of Trinity, yesterday, used an example of Chillingham White cattle, which is a 700 year-old breed. It is a breed of wild cattle, but breed improvement and commercial viability have no consequence to this strain. The Deputy of St. Mary also claimed yesterday that she was going to vote for the status quo. I would respectfully suggest to the Deputy that that is an impossible scenario. If we vote for the status quo it is a vote for the demise of the industry to unviable levels. **[Approbation]** This is an industry that, if we leave it go to those levels, we will not even be able to supply our own people with milk in the home of the Island breed. And yes, another factor to consider is the efficiency and economics, and there is one member of Economic Development here today, hopefully championing the agricultural industry although I think the agricultural industry could have done without Economic Development in the rezoning debate **[Laughter]** but, anyway, I am not bitter. But dairy farming is a hard life. It is a 5 o'clock start, milking twice a day, 7 days a week, so economics does come into it. Young people want to go into this industry and know that they have a future, know that we cherish our breed and know that we can supply our Island with milk from the Jersey cow. But one thing that has to be said is all farmers would probably be better off retiring from the industry. It would certainly be easier for them and they could convert their farms and have quite a nice way of life, but they do not want to, Sir, because they feel passionate about the industry and the Jersey cow. They want to continue and they want to work long hours and work hard without their hands being tied behind their backs. I say we should give this industry a choice. Let us give them a choice and



enable them to diversify, if they wish, with small holdings of beef, supply additional milk products, export, supply our Island and put us back on the world stage. I will be supporting our culture and heritage and I will be supporting the proposition. I will also, in doing so, be supporting the future of the Jersey breed. Thank you, Sir. **[Approbation]**

### **1.13 Senator L. Norman:**

If I had come here this morning needing to be persuaded which way to vote I think it would have been the speech of the Deputy of St. Ouen that would have persuaded me, because he spoke about individual choice and that, to me, is very, very important and that is why I will undoubtedly be supporting the proposition because I ask myself: "Just how much control does the States want to have over the dairy industry or any other industry for that matter?" and I submit, as little as possible. If we are to be true to our policy of rolling back the frontiers, we want as little control as possible; something perhaps that we have not been very good at. However, we were reminded a few moments ago by the Deputy of St. John that dairy farming is a business. It is, but it is not just one business, is it? It is several businesses that make up the whole industry and no one knows those businesses more than the people, the individuals, who run them. Certainly, they know more about them than we do in this Chamber. Many in the industry, many in those businesses, want to advance, to grow and improve their businesses and this proposition will give them the opportunity, allow them to do so, if they wish to. We are told - and it is emphasised in the Scrutiny Report - that there are risks associated with importation. That is undoubtedly true but there are risks associated with every business decision made in every business in the world and what the dairy farmer and any businessman has to do when making a decision is to decide if the risk is proportionate to the potential rewards for his business; the rewards for his business, and in this case, the rewards to the Island and the benefits to the wider community and the consumer. What a lot of people have not told us is - particularly the last speech by the Deputy of Grouville - there are clear risks in not allowing importation. The diminishing gene pool is a very serious risk to the future of the industry and to the future of the herd. There are risks in allowing importation and there are risks in not allowing importation and what we have to decide is what risk is the greater. As the Deputy said, it is about individual choice and in many ways this proposition meets the needs of the dairy farmers on both sides of the argument because those who wish to use imported semen may do so, if they wish, and those who do not wish to use imported semen, need not. Individual choice. I can see no reason, no reason at all, to deny responsible farmers their choice. Why is it that we would wish to impose our will, our inexperienced will in many cases, on those who rely on that industry, that business, for their living and their livelihoods. Their choice, I say, not ours. Certainly, if we do allow this, there will be change. In my view, I have been convinced, it will be a huge change for the better; better for the industry as a whole, better for the consumer, better for the Island. I really think we have to put aside the sentimentality which is running through this debate in some areas and look and support the long-term future of the industry, the Jersey cow and the dairy industry. Thank you. **[Approbation]**

### **1.14 Deputy D.W. Mezbourian of St. Lawrence:**

I am pleased to follow both the Deputy of Grouville and Senator Norman because I concur with everything that they have said to the House. I think, Sir, that, along with the Deputy of Grouville, I too am considered to be something of a traditionalist, a supporter of our heritage. Definitely not someone who would vote to ad hoc or in an ad hoc manner, support the rezoning of green fields within our Island, particularly when that rezoning has taken away grazing available to the local dairy industry. I want to note, Sir, that although the Minister for Environment has not yet spoken in this debate I have been led to understand that he is supportive of this proposal and I may be wrong there, Sir, and I am sure he will speak for himself quite soon, hopefully - but the interesting thing, of course, is that as much as the dairy industry and the farmers themselves are split, so too is our Minister for Environment and Assistant Minister for Environment. There is no consensus there, although I leave it to the Minister to say whether, in fact, there is any consensus, but I believe there

is not. It is interesting I think, Sir, that a debate of - and I used the word "magnitude" not lightly - a debate of this magnitude has not had any comments made to the House by the Environment Department and I would have expected certainly something to have been put forward by the Minister, who shakes his head at me, Sir. I am sure he will address that when he speaks but I am of the belief that something should have been put forward to this House by the Environment Department. All the points have been covered. I would just briefly say that I wonder the Minister and, indeed, his Assistant Minister were invited to give evidence to the Scrutiny Panel. I see no reference to them in the report and I think perhaps the Chairman of the Scrutiny Sub-Panel will address that because if they were not invited, again, I wonder why they would not have been. So going back, Sir, to being a traditionalist and being proud of being a traditionalist and supporting our heritage and culture, I support the Honorary Police and you may wonder why I am mentioning them here today. Well, it is because in order to survive they have had to adapt to ever-changing conditions, to ever-changing situations, to move with the times, to react to issues such as human rights. Quite rightly, we applaud their survival by them being proactive to the risks they face and, yet, our dairy industry find themselves constrained to being reactive to the inherent problems and risks that they have with a diminishing gene pool. Sir, we have been told that this is not a question of economics and yet we know from a panel witness and it has already been quoted but I will quote it again: "Job satisfaction can only go so far and profit has to figure somewhere in the equation" and that is right; these people are working for their living. Surely, there have been economics that prompted the farmers many years ago to sell their best cattle to buyers outside the Island. They were making a living. They made big money by selling their cattle to buyers outside of the Island. Now, when they were doing that there was no way that they could foresee the current problems that the industry is facing. There were many herds in the Island at that time, many big herds. They had no idea that we would find ourselves in 2008 down to the number that we have and the fact that farmers, for different reasons, for different commercial reasons, have had to sell their herds. So when they sold their cattle back in the 1940s, the 1950s, the 1960s, although they knew that they would not be able to bring back either those cattle or indeed the progeny from them, they had no idea that there would not be the genetic availability today that there was at that time for them to produce the extremely good cattle that were being produced by them. So, Sir, I do not intend to repeat the arguments. I am sure that by now Members will have come to realise that I will be supporting this proposition. It seems almost surreal to me that I am standing here supporting this because only recently I was of the opinion that I would not be, simply because of the traditional side of it because I grew up knowing that we, the Island, did not import anything to change the gene pool that is within the Island. As I say, being a traditionalist, I really felt that I would be going along that way. But what tipped me is that I have read everything that has been sent to me, I have spoken to farmers, both retired farmers, people who are currently making their livelihood through the dairy industry. I have been to presentations made on this issue and I know that both sides have been given a very fair hearing and the opportunity to be heard in the production of the Scrutiny Report. Now Deputy Martin said yesterday that it is a balanced report and from that I take it to mean that she believes that both sides of this argument have been truly represented, have been truly heard and listened to. That is as it should be, I believe, with Scrutiny. We cannot come down on one side without listening fairly to the other side and as we know, everything must be evidential. So evidence has been presented to the panel and the panel have come to the conclusion that the proposition P.43 should be supported. Sir, I know you do not want us quoting all day from this, but I believe that the Chairman's introduction needs to have one sentence quoted from it and if I may: "Each side's views are held with sincerity and with affection and enthusiasm for the Jersey cow and her future in her traditional Island home." There, Sir, that is the rub: each side is sincere in their belief and that is the difficulty for us all, I believe. So bearing in mind that the Chief Minister has given categoric assurance to us that the recommendations made by the Scrutiny Sub-Panel will indeed be followed and adhered to and I would add that I have written to the Chairman of P.P.C. (Privileges and Procedures Committee) for that august committee to give some consideration to commitments and assurances that are made in this House and maybe they are not followed up; I

want P.P.C. to look into that. Bearing in mind that the Chief Minister has given his assurances to the recommendations in the Scrutiny Report, I think that I will be supporting this because approval of it will give back the choice to farmers; we have heard this. It will give the choice to those who want to use imported semen and those who do not. I think if this is approved it will be interesting to note over time whether those who are opposed now will in fact take advantage of the ability to use imported semen and perhaps opt to use it in the future to improve their own gene pool within their herd. So, we have heard that if we approve this there is no going back. We know that; it is categoric. But I believe that we have heard from the industry that they have never been more vulnerable and if we do not approve this, I believe that for them there is no going forward. Thank you, Sir.

### **1.15 Senator S. Syvret:**

As I have said to you farmers during many Senatorial hustings meetings, I know nothing about farming and no doubt they may well be saying after my speech: "Well, that was a statement of fact." I have listened closely, therefore, because I know so little about it, to all of the speeches that have been made, not only in this Chamber but when I was working downstairs in the computer room. I was particularly impressed by the speech of the Deputy of Trinity which I think is one of the few, possibly the only speech she has ever made in the Assembly that I completely agreed with. But as Deputy Le Hérissier has pointed out it is somewhat intellectually in conflict with how the Deputy was speaking and voting earlier this week in the re-zoning land. But I say on that occasion she had it wrong; on this occasion I think she has it right. The Deputy of St. Mary too made also a very good speech, I felt. One of the things that is clear from this debate, as other speakers have mentioned, is that the margin of approval for this policy among the industry itself is by no means large. It is by no means large. It is a very close, very finely balanced decision. I was interested to hear Senator Norman's speech when he asserted in his customary market fundamentalist manner that the States should have nothing to do with industry. It should not interfere with it, that there should be no restrictions, no regulations, et cetera, et cetera. But what, of course, he neglected to mention in his speech is that this is not just a standalone free market industry, this is an industry that gets a variety of different subsidies and taxpayers' money put into it. It is, therefore, entirely right and justifiable that the Island's Government should have some say as to the industry's direction. As I said, I do not know a great deal about agriculture but I have, over the years, had to learn quite a bit about public health policy. I would, therefore, like to address a point which I do not think has been mentioned so far. It was mentioned yesterday, I think, by Deputy Baudains, the issue of foot and mouth disease, for example, had not been closely and sufficiently considered. He is most certainly correct in that matter. If we go down this path, have more product, more milk from fewer cattle, from fewer animals, then we will have fewer cows in larger herds. That is the inevitability. That means a greatly enhanced risk of the entire herd, if it is just in 2 or 3 major chunks, being wiped out, having to be destroyed in something like a foot and mouth outbreak. The speed of the spread of contagion in large, single herds is obviously dramatic. The Island herd could be wiped out were it concentrated into just a few high-production herds - wiped out very easily. But then we get on to the human health issue. Even when a few years ago we had the foot and mouth outbreak in the United Kingdom and all of the precautions were being taken here in Jersey against it, on that occasion I was sufficiently concerned to ask my health protection officers about such issues as what if the disease spreads into Jersey and affects many cattle, what do we do to dispose of the carcasses? The professional answer that was given back to me is that, frankly, there is no environmentally acceptable, there is no human health risk acceptable method of a mass disposal of hundreds of cow carcasses in an environment such as Jersey. So having smaller, more diverse herds, minimising to some extent the risk of the spread of the disease, could ameliorate against that danger. We are utterly unequipped to deal with the mass disposal of carcasses and I was very concerned about it on that occasion and I remain so today because today we are still utterly unequipped in the event of a serious outbreak of disease. For example, it may be suggested that it is okay to bury cattle once killed, once culled in fields or whatever. Yes, certainly, that has

been done in the past. You can do that to a limited extent; a very small number of carcasses in a few small outbreaks. But the mass burial of dozens and dozens and hundreds of carcasses would be wholly unacceptable from a human health perspective because it would seriously jeopardise the Island's ground water supplies. The thought of having hundreds of rotting, decomposing cattle buried beneath the surface of the Island is not something that can be reconciled within environmental health protection. So, incineration: well, we have animal carcass incinerators but, of course, they are designed for far smaller, more greatly reduced throughputs. There is no way they could cope with hundreds of carcasses. So, if incineration were to be adopted it would have to be done, as they did in the United Kingdom, on those vast, appalling funeral pyres which were lit and were burning and stinking up and down the length of the country for all of that time. But burning too is not acceptable from a human health perspective. There is all of the obvious: pollutants and, indeed, again, ground water contamination risks that come from mass incineration. But it is also accepted by medical science that B.S.E. (Bovine Spongiform Encephalopathy) prions are not effectively or reliably destroyed by incineration. Therefore, were you to have some cattle infected with B.S.E., you incinerate them; you could put the prions into the environment and expose people to that risk. So that is a concern I do not think has been spoken of or really grasped so far. The fact is if we diminish the number of cattle in Jersey so that we have higher-producing animals in fewer herds, the risks - of course, one cannot be exact about these things - of disease outbreak and the consequent size of that outbreak and then the consequent disposal problems of the carcasses becomes all the more real. We are, I repeat, totally unequipped to deal with that scenario now let alone with fewer vast herds. I just want to finish with another fundamental point which a couple of speakers have made and that is that this is a one-off decision. We make this decision and it is made and there is no going back from it. This is decision time. You are stood at the precipice and you want to jump over to the other side; that is what we are being asked to do. Now, we might make it, the decision might end up being a good one but we might not and just fall off the cliff. This is a one-off decision, we only have one opportunity to decide yes or no, and for a variety of reasons on balance, I will be voting against it.

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

I have been thinking at times during this debate that there have been some somewhat unscientific contributions and I am going to suggest that the last speaker gave one of them. Although I am not a trained scientist, though I did do biology to 'A' level, and I still remember somewhat dimly what mitosis and meiosis are and what the random recombination of genes amounts to, I must say that the notion that rogue genes have been talked to by some of the people who are concerned about this decision we are asked to make, they talk about rogue genes as if they are like the grey squirrel or Japanese knotweed and that once we allow the importation of semen to improve our herds that the Island will be overcome with black and white, brown, all kinds of strange cows and so on. They see this as some kind of almost something like the avian flu that you have no control over. The fact is that there is a great deal of control over selective breeding and there has been since the first use of artificial insemination. I think the previous speaker also was positing the idea that a fewer number of larger herds would inevitably result from this decision. He seems to be forgetting that there are some farmers who are particularly interested not so much in milk production or in profit and loss but in breeding the Jersey cow, and the Jersey cow is something that they want to excel with. Clearly, they cannot at the moment because they do not have the choice to import selectively and to improve their herds. So I do not accept necessarily that approving this today will lead to a small number of large herds. But nor do I subscribe to Senator Syvret's nightmare scenario of Island herds which are somehow weakened and unable to face the prospect of animal diseases. Now, God forbid that we ever have a foot and mouth outbreak ...

#### **Senator S. Syvret:**

A point of order, the Constable is misrepresenting what I said. I never mentioned rogue genes once in my speech.

**The Bailiff:**

Senator, I do not think that is a point of order, with respect.

**Senator S. Syvret:**

Well, I have a right to clarify when other Members are misrepresenting what you have said.

**The Bailiff:**

Well, Senator, I think the proper time to do that is when the Constable has finished his speech before interrupting him.

**The Connétable of St. Helier:**

I did not refer to the Senator in the same breath as rogue genes. Other speakers earlier today referred to rogue genes. I had moved on to the Senator's contribution in respect of foot and mouth. It does seem to me - and, again, I am going back to fairly hazy biology here - that if you have a smaller gene pool then there is a greater risk to a population of animals from disease. Now, none of us wants to see foot and mouth or any other disease affect the Island and clearly we have to deal with that if it happens. But surely we need to give our herds the greatest benefit when it comes to resisting those kind of diseases and, as I say, the smaller the gene pool the less resistance they will have to these kind of things. Recently I had the pleasure of welcoming lovers of the Jersey, the World Cattle Bureau's symposium in Jersey and I welcomed them to the cow sculpture at West Centre. They are wonderful pieces of sculpture. Some people think they are out of place and they should be put on a lawn somewhere but I think they succeed because they are in an urban landscape. But I think it would be truly tragic if that is all we have to offer people who are supporters of the Jersey breed. Maybe I will be accused of exaggerating but I think other speakers have made it very clear that if we take away the choice from the farmer, if we tie their hands in terms of improving their breed, we will have fewer and fewer cows, the gene pool will get smaller and we simply will be just the cradle of the breed. I do not believe Jersey should just be the cradle of the breed; I believe we should have specimens of Jerseys here which can be shown which people will regard. I was quite struck by the Deputy of Grouville's speech when she looked back in her family silver and found cups that had been won by Jersey cows in Jersey. I believe that should be the same again, and it can be the same again, but it will not be if we deny the farmer the right to import bovine semen. There has been a great deal of talk about agriculture, about the farming industry and I am not going to dwell on that because for me the key point is the Jersey cow and not the Jersey farmer. I believe the Jersey cow's best interest and the heritage that represents to the Island is going to be best served if we allow this measure to take place. Thank you, Sir.

**Senator S. Syvret:**

Could I now just clarify some of the misinterpretations of the Constable?

**The Bailiff:**

You may seek to clarify, yes.

**Senator S. Syvret:**

When I was referring to the risks associated with fewer, more concentrated herds, I was not suggesting that the risk of diseases such as foot and mouth come because of some kind of genetic issue, merely that if you have such concentrations of large numbers of cattle living side by side, the risk of a disease getting them and spreading to them is that much greater and that is the fact.

**The Bailiff:**

I think that is strictly a question to you, Constable, as to whether you wish to withdraw any contrary impression you ...

**The Connétable of St. Helier:**

I do not believe I disagreed with the Senator, Sir. I was simply saying that a smaller gene pool would be less resistant to animal disease.

### **1.17 Deputy A.J.H. Maclean of St. Helier:**

Understandably, this is a highly emotive topic. We have already heard some passionate speeches on both sides of the argument and it is clear that whatever outcome results from today's decision there will be a strong lobby who disagree with the decision that is taken. I would like to begin if I may by commenting on one or 2 of the earlier speeches, both today and, of course, yesterday. Deputy Duhamel was not alone in suggesting that this is all about economics and he is right to a certain degree. But it is far more than just economics; it is about a way of life, it is about some 200 years of history, it is about a sustainable future for the agricultural industry. But if farmers cannot earn a reasonable living they will not continue and the difficulties that the industry has faced in recent years is not just confined to the dairy sector. Fewer young people are entering farming than ever before and this, surely, more than anything, threatens the sustainability of the industry as a whole. That is why Economic Development is committed to supporting the agricultural industry and I am disappointed to see that the Deputy of Grouville is not in the Chamber at the moment. She seemed to have the impression that perhaps we were not fully committed and I can assure her and all other Members that, in fact, Economic Development is very committed to the agricultural industry. Agriculture is an essential part of the diversity of our economy with farmers also fulfilling the essential roles as custodians of our countryside. Deputy Duhamel made much about the price differential between Jersey milk and milk in the U.K. and in some respects he is absolutely right, although it should be stressed that Jersey milk is in fact a premium product and as such will rightly carry a premium price. The problem is the differential. At the moment I think we all agree it is too high and the gap does certainly need to be closed. But this is exactly why the dairy needs to move and the whole industry needs to modernise and become more efficient. Part of that process is what this proposition is all about: importing bull semen to make the Jersey herd more productive and, therefore, much more competitive. I will return to that point in a moment. Deputy Huet and indeed others rightly pointed out that the fact that our bull semen is second or third-rate; nobody wants it. Importation will, in time, improve the situation and open up other revenue opportunities for local farmers in terms of export should they so choose. Deputy Martin, I have to say, is somewhat of a marvel. Only last week she took to the cricket field in Guernsey and helped Jersey to a good old thrashing of our Guernsey counterparts by a massive one run. **[Approbation]** Yesterday, I hear her speaking in her own inimitable but, I have to say, expert fashion, about bull semen. Her talents, it seems, are quite limitless. **[Laughter]** I do not always agree with the Deputy on political matters but she certainly did hit the, as one might say, bull on the horn when she said: "The world is leaving us behind." She went on to say as part of a Scrutiny Panel who reviewed the bull semen importation issue, she tried hard to find scientific and economic reasons why this should not happen, and I found that particularly telling. She was taking it from the other side of the equation why we should not do this and she could not find the reason. I have to say, and it was perfectly clear in the Scrutiny Panel report, neither could the Scrutiny Panel that reviewed this. They could not find strong, economic or scientific reasons why this should not happen and I felt that it demonstrated a success for Scrutiny in the way in which they approached this particularly difficult proposal that they had to scrutinise and the timescale that they had to scrutinise it in, which has been mentioned by many Members, was extremely tight. I think, for one, anyway, that they did a very good job in the time constraints that they had. **[Approbation]** As the Constable of Grouville said, surely this should be about giving the dairy industry choice and it has been mentioned by other Members. It is about choice. Those who want to move forward, want to be more profitable and, importantly, want to look for a sustainable future, should be allowed to do so. Those who do not can remain as they are; common sense surely from the Constable's benches. The obvious and correct caveat was that the quality of the imports must be protected. The R.J.A&H.S. have given the undertaking that only bull semen from Jersey cows abroad will be imported and this can and will be monitored and controlled. The Deputy of Trinity asked whether

we are certain of the risks. The answer is that nobody can ever be certain of any particular outcome but what we can certainly draw some comfort from in this instance is from our sister Island of Guernsey who started importing some 30 years ago and, indeed, further comfort from the large number of expert opinions and reviews that have been carried out on this particular subject. Turning to the Deputy of St. Mary who made a number of what I thought were very good and salient points. However, she was wrong in one aspect and that was with regard to her comments about the use of hormones. She used those as an argument for increasing productivity and, of course, they do. However, she mentioned one specific hormone: somatrophin which has been successfully used in the U.S. What she did not, however, mention was that this particular hormone is banned in Europe. Furthermore, it is not used in the U.K. either and the U.K. has a 20 per cent greater productivity than we do per cow. There was much comment that we are not comparing like-for-like when looking at productivity and that we do not use the same quality silage and same concentrates and so on. The facts are that Jersey and the U.K. are almost identical in terms of concentrates and silage. In fact, concentrates come from the same U.K. factory. Furthermore, the quality has been checked by independent analysis. The Deputy of St. Mary suggested better U.K. silage increased productivity and that the gap was 2 mJ. The statistics say that there is virtually no difference: Jersey at 9.49 and the U.K. at 9.99. The productivity comparisons are fair yet a U.K. cow produces 430 litres more per cow per lactation than a Jersey cow does. This has been independently audited by the Milk and Dairy Council; the facts, I think, speak for themselves in this regard. I am certain that we all share a common view in one respect and that is that we very much want to see Jersey cows in Jersey fields. Jersey cows are part of our way of life and I believe recognised worldwide as a symbol of Jersey perhaps far more so as a symbol of Jersey than one could imagine some expensive logo might be considered. **[Approbation]** A priceless look from the Chief Minister. **[Laughter]** However, life is changing. It is enriching, yes. There were some 500 or 600 herds of Jersey cows in the Island. In 1983 it was Senator Dick Shenton who brought the first proposal to the States to lift the ban on the import of semen. That, of course, as everyone will recall, was rejected. At that stage the 500 or 600 had fallen to 176 producers and breeders. In the 25 years since we have dropped to the present position that has been mentioned on many occasions over the last day and a half of only 29 producers and, indeed, there are some suggestions that we may lose one further one in the immediate future. But in other words the expertise now rests in far fewer hands and there are very, very few young farmers coming into the industry. When I first gave the matter some thought, some serious thought, I was nervous about the prospect of importing semen as I am sure many others were. Some of my thoughts were about the concern about the protection of the purity once the ban was lifted. How would we ensure the breed was not contaminated by non-Jersey semen? Once the ban was lifted there is, as many Members have already said, no going back. So what are the arguments for moving from the status quo? Well, the Jersey cow is generally about 20 per cent behind in its yield of milk compared to Jersey cows outside of the Island. Therefore, the cost per litre of milk for feed, et cetera, is far higher. It needs to be more competitive so that the cost of milk can be kept as low as possible for the consumer. Access to the best Jersey bulls around the world will, over a period of time, help to achieve this. There was a very significant export market for Jersey cows and bulls in the past, but this market has moved on and we have, to all intents and purposes to this point, missed the boat. We no longer have an export market even for semen because Jersey-bred cows have lower yields and the best bulls were generally exported rather than retained. The current significant producers need to be supported to invest in the future and to encourage young people to enter the dairy industry and retain the herds and the expertise. The ban on the import of milk to the Island is not supported by formal E.U. derogation and may be challenged in the future. If we were forced by the E.U. to lift the ban on import of liquid milk, our dairy industry needs to be as competitive as possible to stand a chance of surviving into the future. What evidence do I have to support these arguments? Well, the Scrutiny Panel that I have already referred to their report published only this week endorses these arguments and recommends the importation of semen from the international Jersey population. The R.J.A&H.S. commissioned a report by Dr. Maurice Bichard who confirmed that

importation of semen would be of benefit to farmers and their customers. The R.J.A&H.S. conducted a poll of dairy farmers in 2007 which showed that 60 per cent of those responsible for breeding 75 per cent of the Island herd were in favour. This was reconfirmed in February of this year and indeed again in April almost at the same figures although there was some differential. The States commissioned a report from Promar International which stated there is a need for better genetics to survive. Promar also likened the industry by not being able to import genetics as to trying to operate with one hand tied behind the back. The Economic Affairs Scrutiny Sub-Panel last year recognised the cumulative financial benefits of using imported genetics. So far so good. However, what about my original concerns about protecting the purity of the Island breed? The R.J.A&H.S. have given an assurance that only bull semen from Jersey cows abroad will be imported. I have read reports and been to presentations by the R.J.A&H.S., the J.M.M.B. (Jersey Milk Marketing Board) and Promar and was satisfied that importation was and indeed is the way forward. There will, of course, be no requirement for objectors to use imported semen. The supply of pure Jersey-bred semen will continue to be available should they so wish. I know that with some people there is the attraction of sticking with the 200 year status quo which appears to be a far more comfortable position to take. However, is this really the way forward? We saw the debate that Senator Dick Shenton lost some 25 years ago; the number of producers and breeders have fallen by something like 145 to 150. That average is approximately 6 per annum. It might not continue to decline so fast but we know of at least one breeder who is shortly thinking about considering retiring from the industry. We are now faced with a prospect in the very near future with not enough milk being produced to satisfy demand and thus forcing us to lift the ban on the import of milk. If that happens and Jersey milk as at present not more competitive on price, then Jersey milk is unlikely to be chosen by the housewife in preference to the cheaper imported milk. That will quickly lead to the demise of the dairy industry and the Jersey cow until only a small number of Jersey cows remain for sentimental reasons or, indeed, perhaps as Deputy Duhamel suggested, unless people are prepared to sponsor the Jersey cow; I do not think it is really very realistic. Is this where we want to be? I, for one, do not. If you wish to continue to see Jersey cows in Jersey fields to a meaningful extent with a vibrant dairy industry with a sustainable future, then the way forward is the importation of bull semen. We must vote with our head; not our hearts. Importation of bull semen will secure the long-term future of the Jersey cow in its Island home. It is a very difficult decision to make. There are 2 sides to the story: there are a strong lobby who are against this for traditional reasons, and I can fully accept and understand that but I think if we take the wider and the longer-term view, we have to support this proposition. Thank you, Sir.

**Deputy C.H. Egré of St. Peter:**

A point of clarification, Sir; 3 if I may. The Deputy in his speech quoted statistics of milk production ...

**The Bailiff:**

Is this relating to a speech that you have made?

**The Deputy of St. Peter:**

Not me, Sir.

**The Bailiff:**

Well, I am sorry, this is another speech, Deputy, that is not permitted under Standing Orders.

**The Deputy of St. Peter:**

No, it was just 3 points of clarification from the last speaker, Sir.

**The Bailiff:**

I do not think so, no. Senator Cohen.



### **1.18 Senator F.E. Cohen:**

I am beginning to develop a complex; every time Deputy Mezbourian stands to make a speech she gives me a ticking off. **[Laughter]** Maybe it is deserved. In this case, I am happy to clarify that the Environment Director has been leading the advice given to the Chief Minister and the report attached to the proposition represents the views of the Environment Department and it does not need any further clarification from me. This is a difficult issue for me for a number of reasons not least of which is that it is the first time I find myself opposing the views of my friend and Assistant Minister, the Deputy of Trinity, but I am afraid that is the way it has to be. My connection with cattle is very little. In fact, the last time my family were involved with cattle was when my great great grandfather kept a single cow. It was a single cow in a small field behind his modest house in a small village in Lithuania. However, by coincidence, I read the autobiographical manuscript recently of my great great uncle who lived in the same house and described how he and his brothers had to milk the cow before they left in the morning for religious school. He told extraordinarily of how when the family left Lithuania in 1882 the cow had so little value they gave the cow away to a neighbour, and it is the date that makes the story relevant: because it was the same date, 1882, that a single Jersey cow was sold for the extraordinary sum of £1,000. Just think for a moment of the significance of that amazing sum and just think of what it represents in terms of status for our Island when it was at a time that a farm could be bought for a couple of hundred pounds. It represented the zenith, to an extent, of the agricultural industry for it coincided also with the period of great prosperity brought by the Jersey Royal. It was a very different picture in our Island. It was a picture of enormous prosperity derived from agriculture of enormous pride and the foundation of what we see today which is many farmers seeking to do their best to continue in a traditional industry passed down from generation to generation. It was not that long ago, just after the war, when 3 cows, I am told, were sold realising sufficient funds to enable the farmer to purchase 3 farms with the proceeds. There can be no doubt that one of the reasons for the decline since these amazing times has been the improvement of the breed outside the Island. It is a very sad case that we are no longer an exporter of cattle. The industry is comprised of many hardworking people who have chosen - and the important thing is they have chosen - dairy farming, partly because they are considerate of their heritage and wish to remain working in the industry of their forefathers. I believe it is our obligation to help them. The dairy industry needs our support. The first part - and there are 3 parts - was the approval of the new dairy which will give them the efficiency they need in terms of a dairy. The second is the introduction of enabling development because it is the only mechanism presently available that will provide significant opportunity for dairy farmers and arable farmers to reinvest in their farms without direct public subsidy. The third is the proposition we see before us today for it is this proposition that will give those farmers who wish to the opportunity of improving their dairy cattle. The important thing is it is not compulsory; it is optional. Farmers who wish to retain a traditional herd without benefiting from the importation of semen can continue to do so and those who wish to take an alternative view can take that view. I find it curious that the future of the dairy industry, such an inherent part of the foundations of Jersey, ends up resting with me and other States Members who have no direct connection with the dairy industry. I would much rather that this decision was made by the dairy farmers themselves but that is not the case. I would conclude by simply saying that I would not presume in this case to try and influence other Members on this matter but I will make it clear that I will be voting in favour of this proposition. Thank you.

### **1.19 Deputy G.W.J. de Faye of St. Helier:**

It is quite clear that views are very polarised in this debate, so I really want to address myself primarily to those Members who have not yet made their minds up; the floating voters, of course, who I will predictably refer to as the "milk floats". **[Laughter]** Sell the best and keep the rest. Unless I am a victim, Sir, of very subtle misinformation, that is an old Jersey cow-breeders phrase: "Sell the best and keep the rest." I think it is clearly true by the documented evidence that we have in front of us that over the years - and we have just heard Senator Cohen mention the extraordinary

prices given for Jersey cows - what an incentive that would be to any Jersey dairy breeder to want to sell and maximise his financial advantage by selling his best animals, bulls and cows, and keeping the rest knowing that because in times past when there was this element of random probability in breeding and selective breeding that there would probably be another excellent animal, a bull or cow, that would pop up in due course. Clearly, breeding itself has become much more sophisticated as modern science has developed. Sell the best meant, as we all now know, that Jersey cows were exported all around the world which certainly was not apparent to me as a young school boy. I was very much under the impression that Jersey was the Holy Grail of the international dairy industry and that if you were very lucky we would let one or 2 of our cows go out to another country where I assumed that they bred with every other cow and bull out there and that the world was a jolly lucky place to have Jersey at the centre of the world Jersey dairy business. So, it did come as something of a revelation when over time I realised that there were many more Jersey cows everywhere else and not very many left in Jersey. More interestingly that the Jersey dairy farmers in other countries: the U.S.A, New Zealand and so forth were just as passionate about their cows and also kept herd books and were also absolutely passionate about breeding in particular. So, we now have the situation where you can obtain not quite genuine Jersey milk but Jersey milk from a pedigreed Jersey herd all around the world. You can find it even going into U.K. supermarkets there on the shelves: Channel Island milk, but not necessarily from Jersey. Now, Sir, to understand what all this means in terms of the breed pool available for Jersey dairy farmers I just want to stray into the sporting arena for a moment. Sir, I know that senior members of the judiciary can often be unfamiliar with rough sporting games **[Laughter]** so when I refer to the "beautiful game" I am, of course, talking about football, a game played between 2 teams of 11. In the modern game which is now known as the "beautiful game" football managers scour the world to fill their teams with fragile balletic dancer creatures who have ball-juggling skills but unfortunately fall over rather easily and can be damaged if people tug at their shirts too much. But nevertheless despite the difficulties of establishing a pre-eminent footballing side, one of your fellow knights, Sir, a gentleman called Sir Alex Ferguson runs a team called Manchester United who have been pre-eminently successful in recent years, winning their national championship and also beating off all-comers in European football. Now, Sir, I do not know how often you and Sir Alex may meet up at medieval feasting and tournament nights, so this may be all old hat to you. **[Laughter]** But you can imagine, I am sure, that having established this spectacular array of talent from all corners of the world, despite the fact they still go by names such as Dave, Ron and Shrek, the difficulties that Sir Alex would face if he were told that in future you may only select players who live within a 5 mile radius of your football game at Old Trafford in Manchester.

#### **The Bailiff:**

Now you are coming back to the point.

#### **Deputy G.W.J. de Faye:**

Indeed, I am, Sir. **[Laughter]** Because as will be apparent, Sir Alex will be faced with an almost insurmountable difficulty if he was asked to assemble a football team of the talents that he has been used to from such a small radius. Now, extraordinarily, although it is clearly obvious that that is just an implausible, impossible situation to deal with, in reality that is what we are asking Jersey dairy farmers to contend with; that you may only select your breeding pool from within the Island, and as I think many speeches have made clear, this is posing enormous difficulty and we must look very clearly and closely at what we will be doing if we keep insisting that this is the way the local dairy industry must operate because they are telling us we cannot carry on doing this. Not only that, look at the wonderful animals that have been bred from our own animals all around the world. It does seem to me, Sir, only fair that we must give farmers that sort of opportunity. Now, there have been a number of contributions made on the basis of a preliminary declaration that there is some family background in the dairy industry which is always an interesting position to start. This

is then normally being followed by, frankly, scare stories about monstrous calves, freak births, genetic deformities. I was disappointed to hear from the Deputy of St. Peter a claim, again, made on the back of having a family background in the dairy industry that elements of beef breeding could see whole rounds of caesarean sections and the cows being subjected to unfortunate surgical manipulation. I was disappointed because as the Deputy should have known, Jersey cows are one of the best cows in terms of how they handle births. It is also very well known which beef animals they should absolutely not be crossed with; this is well known information and the Deputy, who is an expert in risk assessment, should have followed his remarks with: "What was the likelihood of that ever taking place?" Frankly, the risk assessment is that it is extremely unlikely that any such situation would occur where a Jersey cow was in such trouble because of a mistake in breeding that we are having to deal with caesarean sections. Intriguingly, Deputy Ferguson from St. Brelade for her part referred to American cows that were being bred for production and not for show. She referred to them as rather courser, slightly hairier beasts, I believe. But I need to suggest to the Deputy that that is precisely the problem. For many years Jersey breeders bred for appearance and there we saw the result of the attractive local cow. But what is becoming, I think, very apparent, certainly to me and it appears, I think, the call from those progressive members of the dairy industry, that it is no longer viable or sensible to persist in breeding for what might be described as the haute couture of the world Jersey herd. This is just a fashion that has gone out of fashion. What is important now is to breed precisely for what Deputy Ferguson did not like; it is to breed for production and this is exactly the area where the Jersey breed has been falling behind to the extent that farmers elsewhere in other countries are no longer really interested in taking semen from Jersey herds or, indeed, animals. Now, of course, the big concern that has been raised in this debate about "what if" relates to the issue of derogation and the high risks of the importation of milk. I believe the Constable of St. Brelade who feels very strongly about the high risks of importation of milk. I do think we need to get this reasonably clear. It would seem that over time importation of milk may well be inevitable anyway. It is also a fact that a derogation is generally a time-limited device by which you are allowed so many years to come in line with a law that has been imposed. There are very, very few opportunities where you have permanent derogations. On what would we base it? I do suggest strongly to Members that I think it would be very difficult to suggest that there is something so unique about the Jersey breed given that there are Jersey herds around the world with herd books that show the purity of the various herds elsewhere, so what exactly is going to be so unique about the Jersey breed in Jersey? In broad terms, we might have to try and extend the argument to 'terroir' which might suggest that somehow the feed or the grass that we grow in Jersey is different to the feed or the grasslands that may exist elsewhere in the world. But I believe that those are such tenuous arguments that they are very unlikely to succeed. We must accept, I think, that trying to cling on to the idea of derogation is not really the way forward in this argument. What is the way forward? The way forward is to put our trust in terms of how we come to make this decision into the hands of the relatively small people who know exactly what they are doing because they are practising dairy farmers. Let us just push these statistics around a bit and go to the statistics at the heart of the matter: there is one sole statistic that is worth paying attention to and that is 79 per cent of registered milk producers are in favour of importing semen - 79 per cent are in favour. **[Interruption]** No I am not going to give way because we will just get into an argument about percentages and statistics. If I have that wrong, I am jolly sorry, so I will rephrase it and say the vast majority of practising milk producers are in favour and that is my position, Sir, and I will not budge from it. Why is that important? Because the current registered milk producers are the people with the most up-to-date and practical experience of what is going on in the industry. I have to say with respect to all those who have retired under whatever circumstances they have retired, you are now out of the game and this is about being in the game. I want to back people who are in the game. Now, yes, there are a few young entrants into the industry and I would wish to encourage them but we have heard that some of them are against this idea of importing semen. But they only represent a handful and predictably as young people they are likely to be a slightly more disruptive element within the industry anyway. But let us not forget this is a dairy industry. This is

not about people doing this for fun or as a hobby, not the long hours, the 7 days a week attention required, the animal husbandry. This is an industry, fortunately where the dairy breeders love their animals but they do not do this for just love. This has got to be viable and it has got to be a career. It has got to be an opportunity to make money. The message coming very clearly from those people who work in the industry is that we need some encouragement and we know what encouragement we need and importing semen will make a big change. What sort of change? It clearly shows in the report over a 10 year period, significant gains can be made in milk yield per cow, as well as savings in feed used per litre of milk produced. I will not go into the further details. We have heard a lot of scare stories. The States has over the years fiddled and dabbled around in the industry to all intents and purposes with the best of motives but quite often distorting the practices, sometimes helping. We have heard, Sir, about standing on precipices, opening doors, not opening doors, historic moments. Sir, I do hope that this is an historic moment for the States when we can open the door to our dairy farmers and show them that there is light at the end of the tunnel of struggle that they have been through, that there is a brave new tomorrow that the young farmers can grapple with and we can give them the encouragement and incentive they need by making a sensible decision. But let us make no mistake. What if we do not take the brave step forward? I have real concerns that simply by failing to make the right decision we will propel the industry into very early collapse when we should be opening the doors to the brave new tomorrow. Why do I say that, Sir? It is because we know that the dairy is being sold. There will be very substantial amounts of money that quite rightly will be distributed to all the current producers who have an entitlement to their share. The question will be what will they do with their share of the sale of the former dairy? Simply because we believe at this stage that there is to be a new dairy built at Howard Davis Farm, it is not signed, sealed, delivered or constructed. There will be an enormous temptation if farmers feel that we are not giving them the encouragement they need to just pack it up now and take the money. I would not blame any of them for doing that given the huge amounts of hard work they go through and given the fact that although we have paid out, when we bought the quotas out we saved a lot of dairy farmers but we left the rest of them still in there, still working hard, still struggling with an inefficient dairy and still struggling with a very low price for milk. That was a serious oversight by this States Assembly some years ago because we left the remainder effectively in the lurch and they have still been struggling to find a way through. Today, Sir, we can offer those farmers a beacon of hope, something to work towards, something that will help them believe that there is a career for them still and possibly a career for their families in the future. My real worry, Sir, is that if we do not offer them that hope they will have no hope and we will by perforce implode the Jersey dairy industry a lot faster than Members may think. It is a real and significant danger to this Island, Sir. The one clear way out of this is to support this proposition.

#### **[Approbation]**

#### **Deputy A.J.H. Maclean:**

May I clarify a point, Sir, relating to my speech earlier on? I am rather concerned, Sir, that I might have misled Deputy de Faye listening to his comment about 79 per cent of breeders being in favour of importation. What I quoted, Sir, was the R.J.A.'s poll from 2007 which referred to 60 per cent of breeders who represented 75 per cent of the herd, i.e. a quote of 79 per cent which is not clear, Sir.

#### **Deputy G.W.J. de Faye:**

I am very grateful, Sir. It means that Deputy Maclean has been on the banana skin and so have I this morning.

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

I think there are a few points I would like to clear up; firstly, about the Scrutiny Sub-Panel. I was asked to go on the panel precisely because I have not been involved in farming and I had no preconceived ideas on it; I had not prejudged my position. I think it ought to be emphasised that throughout the hearings and the sittings of the panels at no time were we put under any pressure by

Deputy Ryan who chaired it to come to his viewpoint. We were scrupulous in forming our own decisions. I think any idea that we might have been pressured that way is just untrue. I specifically held back and would not make a final decision until I had heard all of the evidence. That happened the day before we met to make our final submission. Because of the death of Jack Le Sueur, I waited to go and talk to the Rennards with their herd who are opposed to importation. I knew that but I wanted to hear their view before I made a decision. So we have been very careful about not prejudging. I think we all know that there is a great deal of emotion and very genuine feelings in this and there are genuine fears. There are one or 2 items that come up time and time again. We have to be careful how we look at it. I am afraid the Constable of St. Peter read part of one of our conclusions from this report. I think if you will permit me, Sir, I would like to read the rest of the conclusion that he did not read. He was talking about rogue genes and went on: "An absolute safeguard to this is not available." He did not finish the sentence which read: "But the threat needs to be kept in proportion. The sub-panel is happy that overseas herd books are as accurate as the Island's and is reassured by the robust nature of the safeguards that have been put in place by the R.J.A.&H.S." That I think turns his argument on its head. I think it is only fair that it should be brought out. There are worries about genes. The Deputy of Trinity spoke about the risk of disease. We have to realise that we are guided by the experts in this. I am not an expert on cattle disease. But we are assured by the States vet that the restrictions, the regime that is put in place to ensure that only the purest semen is imported is of a very high standard indeed. A very high standard. She went on to say that we were at far greater risk from windborne infection; things like blue tongue and foot and mouth. That brings me to a point that Senator Syvret said. He is quite right. The number of herds reducing does increase a risk with foot and mouth and it is something that we do have to be aware of. But the number of herds has reduced anyway without importation of semen and, therefore, the risk because of the number of herds is smaller has increased and that will continue to do so. That has nothing to do with the importation of semen. In fact it is possible that if we do allow importation of semen the number of herds may not reduce in number as fast as they would have done had we not allowed it because there will be more economic reasons for keeping your herd going. That also on the same subject of foot and mouth leads to another point. In one of the recommendations of the report we do suggest that samples of bovine semen and embryos should be stored not only in Jersey but around the Island to ensure that - heaven forbid - should there be such a bad outbreak of foot and mouth or something like that in Jersey and the herds were wiped out we would be able to go back to where we are now. That recommendation is that this should be done anyway. There is a cost involvement but we know that there are places around the world that would be keen to help with this. I think for the safety of the Island breed it is something that should be done. The Deputy of St. Peter spoke about the problem or the risk of an error being made and wrong semen being brought in. Yes, you cannot prove a negative. There is always a risk. The bulls that would be used for the semen are D.N.A. tested. The semen itself is D.N.A. tested. As I have said the regime that is in place to guard against these sorts of errors is very strict. We have to make sure that we follow this regime as closely as possible. Again the States seem to feel that this is perfectly feasible. We have had lots of fears mentioned. This could go wrong, that could go wrong. What we are facing to a large extent is the fear of the unknown. We do not know if these diseases or gene problems could arise. We cannot prove that they cannot because it is negative as I said. What we have to do is take as many precautions as possible and get things in proportion. The one problem we had as a panel was to see whether there was any merit in the argument put forward by those arguing against. The problem we had is that there was very little in terms of actual fact. Virtually all of the information we received was pro in terms of fact. I think Deputy Martin made the point that we went out of our way to find reasons why this report should not favour importation and we could not find the reasons to argue against it. I would just like to finish with one point. We were very lucky having the international cattle conference here. It gave us a chance to meet the top people in Jersey breeds throughout the world. In fact before we met the genetic experts as a sub-panel, I had been horrified to talk to a number of people who had come to the Island for anything up to 20 years. My view of Jersey cattle up until that time was, yes, we

knew we were not producing as much milk but I thought they are on a pedestal, this is the best in terms of how our cattle look. I was horrified to speak to these gentlemen and find, yes, there is a range. There is good and bad in the Island and some of the good are very good. But the feeling was that the average was getting worse and the item they raised several times was that the quality of the udders was not as good as they had been. That was a real shock to me when we spoke to our experts from the cattle conference and this viewpoint was confirmed. That to me was a real shock. Jersey has put itself as a little separate entity and we have not taken advantage of the improvements that have been taking place everywhere else in the world. We have stood still. Everyone else has got better. I am not just talking about the sheer quantity of milk that is being produced. I am talking about the quality of the cows themselves. Yes, there are good but the average is not as good as it should be.

### **1.21 Deputy I.J. Gorst of St. Clement:**

A number of speakers have indulged in reminiscing. In fact, Sir, to me this debate has at times seemed like an agricultural show with Members parading their particular farming pedigree. I would not of course want to second guess your judgment, Sir, but it seems to me that perhaps so far the winner is the Deputy of Grouville. **[Laughter]** I, Sir, not wanting to be outdone of course come from a farming background where my parents and grandparents have been involved in the dairy industry. Coming from the U.K., Sir, we have been involved in importation of semen from the 4 corners of the earth with our herd and embryonic transfers and the likes of which is what we really are talking about today, Sir. I do not want to labour that point or speak for too long but I do want to pick up a couple of short points that other speakers have made and maybe just analyse them further. The Deputy of Trinity in her speech yesterday made great play of a closed herd in the United Kingdom that had managed to survive and grow and maintain its traditional qualities. When I look at this proposition, Sir, I see that what we will be doing is allowing that very instance to take place within this Island. We are proposing to allow the importation of semen for those farmers that wish to do so. However, this proposal also allows for those who wish to continue with their closed herds to do so as well. Yes, they will be separated in the herd book but that will, to my mind, allow them to continue with their traditional breeding from the traditional herds. Therefore, I know it was not what the Deputy intended but I feel it was a very strong argument in favour of allowing the importation of semen because while on the one hand those that wish to, can. Those that wish to remain traditional will also be allowed to do so. It recognises that there is division within the industry itself about the right way forward. It takes that division and allows that division rightly or wrongly to remain. A number of speakers have said that the answer might be further diversification. Sir, the thing with diversification is it is excellent for those who get in first, so perhaps dairy farmers could diversify into producing milk. Unfortunately for the second, third and fourth it no longer becomes possible because then they are just going into another industry and replacing one major industry with another. It just does not work. Nor is it possible for every single farmer because of geography, because of perhaps the buildings that they have to diversify in the same manner. Yes, it is good for those who get there first but it is not really sustainable for maybe the third and fourth who consider doing the same. I come to a bugbear of my father's, and perhaps I am showing my age here. That is that unfortunately small business and government do not always make for happy bedfellows. Government, yes, does have a role in protecting business perhaps in governance and compliance but unfortunately it often tries to provide solutions which are not suitable for small businesses. That, Sir, is what farmers on the whole are. They are small businesses. Government gets involved with red tape and legislation which hampers them, hampers them doing what they want to do, doing what they need to do. It often drives up their cost base to the detriment of their industry. I think it is worth reminding Members that the majority of farmers love their animals. They live, they eat, they breathe cows. Sir, I have many, I do not want to call them happy memories - maybe they were happy memories - of going on holiday with my parents. What could we never get away from, Sir? We could never get away from going and visiting the nearest herd to wherever it was that we happened to be going on holiday. It was my parent's meat

and drink shall we say, Sir. That I believe is where we find one of the difficulties that we are in today. Farming must be a business. It must be profitable. I take issue with Deputy Duhamel. Economics is not a bad thing. Farmers are the custodians of our countryside. They have maintained it and they have sustained it for generation after generation and I hope that they will continue to do so, Sir, mostly without the involvement of Government I must say but Government does have perhaps a hand to help them to do that. In fact, Sir, I think it is fair to say that most farmers love their animals so much that long beyond the time when their particular herd or size or business is profitable, they continue in that business to the detriment of themselves and to the detriment of their family. They love their lifestyle. They love their animals so much that they cannot withdraw from it until they absolutely have to. That, Sir, is a shame. I believe that if we support this proposition today, Sir, what we will be doing is giving the farming industry and those small family farms another weapon in their armoury of sustainability, Sir. It will mean that the farmers and the farming community can continue to be custodians and good custodians that they are of the countryside for longer, taking some of the burden off Government. If we do not do this, Sir, what are we going to replace farmers and the dairy farm industry with? Are we going to take on the role as Government of carrying out the branchage, of protecting green fields, looking after the countryside? It is not a mistake the countryside that we love and enjoy week by week, Sir. It is provided by the hard work of those people who farm it. I for one do not believe that we should take that off them. I believe that we should support them, that we should encourage them. I believe on balance that by accepting this proposition today that is what we can do. Yes, we will be retaining the division but we will be, I hope, supporting them and encouraging them. I for one, Sir, am thankful for the contribution that they make to our countryside and to its sustainability. I ask those Members that have not yet made up their mind to support this proposition.

### **1.22 Senator M.E. Vibert:**

I have no intention of repeating all the learned arguments I have heard and I have been listening to them. But as I grew up on a mixed farm I will speak very briefly of my thoughts on this. I grew up just up the road from the Connétable of St. Ouen and we both learnt to milk by hand. I am sure there are only a handful in the States did so. One of my proudest moments and relief was when I nailed up the Alfa Laval sign on the stable door to show that at last we had a milking machine because that was progress. Can I say in those days you did not have a lot of choice of which bull semen you wanted as I used to walk the cow to the bull down the road. There was only one bull down the road so that was our choice. I found this whole debate difficult from the start. I have been swayed one way then the other as I have listened to people believing passionately in what they are saying and all having good arguments but I think it does come down to choice. Can I say if those against the importation of bull semen were being forced to use imported semen, I could not support this? But similarly I cannot support those in favour who want to use bull semen being denied that choice. It is about choice and it is a difficult choice for States Members to make because of the strength of feeling about it. We have to make that choice reluctantly because of the divisions with industry but I believe we must allow those who want to use imported semen that choice so I will be supporting the proposition, Sir.

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

I think it is well known that I am on the Corporate Panel. When the panel was deciding to call this in I think Deputy Egré and myself made it quite clear to the Chairman that it was essential that the panel consisted of people who really did have not any close ties to the cattle business. I must say I am very pleased with their report. They have looked at the facts. Can I just say that I too also admire Deputy Martin for the grasp she has taken on this? Someone who has never had any idea of the cattle business has looked at the facts. Let us be fair, the majority of us if we would have had any scrutiny to this quality and depth we would all be supporting this proposition. But this is an emotive subject, Sir, and I can see both sides. I am speaking really -- I suppose it is well known we have recently come out of the cattle business me and my family; a very, very hard decision to

make, Sir. But I think there is no better time than to discuss this now. We come most weeks to the Assembly, Sir, and we hear about efficiencies. We have had 2 Members speak today who all the time we are told we should have efficiencies, we should be cutting back, we should be doing this, we should be doing that. I totally agree with that but, if you look, how can we be efficient? Right, anyone now who is in the process of investing in a herd of cattle, what has happened in the last 6 months? Since my family has left the industry I cannot believe the way prices are rising; the price of land, the price of cattle food, the price of fertiliser. Sir, the days are long gone when you could be a farmer for a hobby. It is now big business. There is no getting away from it. These cattle farmers are now investing large sums of money. At the end of the day they have to have a viable industry for their family future. It may come as a surprise to some people but farmers do not get paid extra for their milk that they milk on a Sunday morning at 5.30 a.m. - unsociable hours - Christmas Day, Boxing Day. Anyone who is in the cattle business it is a labour of love, Sir. You can never rest. If a cow calves at 10.00 p.m. I am pretty sure the majority would either give that animal an injection to make sure she is comfortable through the night and does not go down with milk fever. It is a continuous worry. All farmers who have cattle are conscientious. I realise that there are certain people who do not want to avail themselves of the importation of semen. Sir, I want to see the industry survive. I think we should give all those who wish to have the chance to improve their herd and their profitability -- let us be fair, I have seen it myself, Sir. We had 85 milking cows. They all go out in the morning, eat the same grass, eat the same food and come back in. When you milk them lo and behold some give 25 litres, some give 15 litres and some give even less than that. The thing is, Sir, most of us were using the same bull semen from the Bull Proving Scheme. We always inseminated our best animals with the same bull as maybe a certain farmer in St. Peter or St. Brellade. Eventually we have a very small genetic pool and this is the concern. We will eventually get to inbreeding. This is the way to help those who wish to go forward improve their herd, improve the litres the animals can produce so that they have a viable living; that there is some hope that young men and women will go out say: "There is a possibility now of me making a good living out of this and I will keep on doing it." I am delighted to follow Deputy Gorst of St. Clement. This Island owes an absolute debt of gratitude to farmers. He mentioned just the branchage but let us be fair our fields are still green and we live in a very pleasant Island only because of the people who are in agriculture. We owe them a debt of gratitude. I would dread to see what the Treasury Minister would say, Sir, if we all decided to change the law, of the worry and said: "I think it is time, Sir, that the States took over doing the branchage." Can you imagine trying to have the whole Island done in a fortnight in July? Wonderful. They would start Christmas Day and they would still be doing it the following year. We owe a debt of gratitude to all the people in the agricultural society. I fully support this. I know it is an emotive subject and I concur with those who have strong feelings either side but I shall be supporting it, Sir.

#### **1.24 Deputy P.J.D. Ryan of St. Helier:**

It is not my job to sum up this debate. That is the job of the Chief Minister. It is his proposition. Most of what perhaps I could have said on the subject is contained in our Scrutiny Report. I think it is fairly clear. We always knew - certainly I knew - that it was hugely important to produce a report that was unequivocal and we have sought to do that. But at the same time as knowing that we needed to produce that kind of report, we also knew that had we come out on one way, perhaps if we had come out not in favour of importation then we would have had all of those in favour of importation on the floor of the House seek to prise open our report. In exactly the same way it has been interesting to see those that are anti-importation when we have, in fact, come out in favour of importation primarily, again seek to prise open our report. That is par for the course. That is what we do in Scrutiny. I have no argument with them trying to do that. That is a perfectly legitimate political procedure to engage in. I have no argument with them but there are one or 2 or 3 speeches that I just want to refer to because there have been some things said that are factually incorrect and I do not want to leave a situation that misleads those Members of the States that may still not have made up their mind on this issue. I would like to refer very quickly to those. First of all Deputy



Duhamel made some points about the difference in the price between Jersey milk here and milk in the United Kingdom. He repeated several times that the price difference was about 35 pence. It may be true that the price of milk in the U.K. is 65 pence approximately and the price here is approximately £1. I am not going to give way on anything so please do not try to take issue with what I am saying. I warn Members in advance I will not be giving way at all. What this Deputy failed to recognise is that to import United Kingdom milk, there would be a huge price premium to be paid on that because of the cost of transport, the cost of refrigeration during transport. This would greatly erode the price of a litre of United Kingdom milk when it arrived on our supermarket shelf. There is a huge difference there that I think the Deputy failed to recognise, and others do. I just want to correct that impression. The actual price of U.K. milk on supermarket shelves would be much closer to the price of Jersey milk. Now I would just like to refer to the Deputy of St. Mary's speech. I am not going to go into it in any huge way I hope but just one or 2 points. I think that the Deputy mentioned that she did not see much in the way of economics in our report; that really this was all about economics. I did remember her saying - I made a note of it at the time - that there was not too much about economics in our Scrutiny Report. I would just say to her that she should look again at section 9.2 on page 60. I am sorry, we do refer to economics. She also mentioned that milk recording was not universal in other countries. I am afraid that is not true, Sir. We have received evidence at the World Jersey Cattle Bureau if you were to suggest to those breeders around the world that their milk recording was not accurate I think you would find they would be incredulous at that suggestion. The Deputy referred to Professor Funk I think. I think she mentioned also that the public interest was only lightly touched upon in the report. Again I made a note. I would say to her that our second tranche of recommendations in fact addresses many of those public concerns and also the concerns of those who do not want to import. But overall I would just like to make the observation that the main concern for the public - and I think there are several other speakers that referred to this - is that we will end up with non Jersey cows in fields. I would just like to say to the Deputy that we were always aware that this was a major concern particularly of the public and that is why we did a huge amount of work on this and the likelihood, therefore, of that happening. We came to the conclusion that it was the commercial viability of non Jersey herds that was crucial to this particular issue. I think she also referred to that the alternative approaches to the improvement of the Jersey herd were not covered particularly well in our report. This is an area of quite detailed specialism shall we say. It is a very specialist area as to how you improve particular herds of animals of all types. I would at this point perhaps like to pay tribute to our advisor, Professor Stephen Hall, a very eminent geneticist from the University of Lincoln. We had to rely on Professor Hall in this respect and a discussion between him and the equivalent experts at the R.J.A.&H.S. There are certain things that they were talking about that very quickly, I have to say, perhaps lost the members of the panel at some stage. They had things like open nucleus herds and various other things. We had to rely on his view as the expert in this instance and I can say that he was satisfied with the answers given by the R.J.A.&H.S. that other ways of genetic improvement were not practical in the Jersey context. He was satisfied that they were not practical in the context of the Jersey herd. I think the Deputy also sought to prise open our report a little bit by suggesting that we had favoured the R.J.A.&H.S. over others. One of the things she mentioned was allowing a copy of our report to go to the R.J.A.&H.S. when we did not allow it to go to others. I would just like to remind Members that we had to ask the Assembly to accept that the codes of practice with regard to Scrutiny because of the time constraints were compromised in this particular issue. We were not able to give the contributors to our report and the witnesses the sections of the report that referred to their evidence with the 5 day notice that is in the Scrutiny code of practice. I will just remind Members about that. I did give advance warning about it. When we had finished our report what happened was that on the very evening that we finished our report we produced it and finalised it the following morning as I recall. States Members had it emailed and had hard copies on their desks. The Royal Jersey Agricultural and Horticultural Society contacted our officer and requested a copy of our report. As was the case because they were witnesses and contributors to the report we released a copy to them. If any other stakeholder

from the other side of the argument had similar, and so requested, they would have been given a report in exactly the same way. All I can say that it was totally even handed. I would say that to the Deputy and to other States Members. I think the Deputy finished her speech with the statement that she felt she did not have the tools to make the decision wisely but, Sir, I would suggest that the Deputy is never going to have enough evidence, in her mind. She is never going to have the tools. She has made up her mind and it is closed. I would suggest that. I would like to turn now to Deputy Baudains and just correct one or 2 things there. He is saying that if we import genetics, I think his point was it is not just about the quantity of milk, it is about the quality of the milk as well and its butterfat and protein content. I think that was the point he was making. I would just like to remind him and Members that the quality milk payments that the public makes to assist the dairy industry is based on quality and butterfat content and protein content as well as quantity. We pay subsidies to the dairy industry based on butterfat as well as on quantity. There are huge incentives for the industry to increase their quality as well as their quantity. I think he also suggested or threw doubt on the paperwork and honesty of breeders throughout the world and whether the herd books were accurate. I have not heard many Members referring to the fact that we will have particularly careful and scientific analysis of the respective import of semen through D.N.A. testing. There are all sorts of scientific controls via D.N.A. testing that will ensure accuracy. I do not think that point has been particularly well made so I make it now. In addition to trusting other herd books and breeders throughout the world and other industry equivalents to the R.J.A.&H.S. we will not just simply take their word for it. We will do a huge amount of genetic and D.N.A. testing to be satisfied as well. I think Deputy Baudains referred to reducing the gene pool would this lead to the demise of the industry? Our belief as the sub-panel was on the balance of probabilities we were more likely to do that if we do not import than if we do. Anyway again I would point out to him that our second tranche of recommendations protects the interests of the smaller and traditional herds. Senator Syvret and Deputy Baudains both referred to the risks of foot and mouth disease. I think that has been covered by other speakers. I will not go into any detail but I would just ask the 2 Members; are they saying that we must deliberately legislate to have less efficient farming in order to spread the risk? I would ask them if either of them have been in business - I know that Deputy Baudains has been in business and probably still is - how would they feel if that was our attitude towards their industry? Some Members have talked about beef crossbreeding. I think Deputy Ferguson as well. There is a small beef industry in Guernsey which we have looked at and have taken some lessons from. Again I cannot remember who it was I think it was Deputy Baudains said that there is no detail in the report about the beef industry. I am sorry but I would refer the Deputy to pages 48 to 52. We did a huge amount of work on possible non Jersey breeds and I would refer him to that. The Constable of St. Brelade felt that our conclusions and recommendations had -- and I think I made a note. He suggested that I had "stamped my authority" unquote over the likes of the other 3 members. I would suggest to him he does not know those members very well **[Laughter]**, particularly the one sitting over to my right. To the Deputy of Grouville, I would like to thank the Deputy of Grouville. She said that it was not fair on the industry or to Scrutiny to suggest that our report had been rushed. But if rushed is the only criticism that those seeking to prise open our report are left with then, Sir, I am quite content. Finally, a few points about the farming industry in general. Sir, farming largely in the industrially developed world seems to have fallen off agendas. It has become no longer fashionable. Whether this is by design or by default of governments I am not sure but it is not surprising, therefore, that farmers' morale is at a low ebb. It is time that this changed. I have learned a huge amount about the dairy industry in particular and farming in general over the last 2 months. I have been honoured to have met several farmers and their families. Sir, I can say that it is time that we rediscovered the importance of farming and returned agriculture in general to its deserved place at the centre of the economic development portfolio. That is why, Sir, I have pulled out all of the stops to try to resolve this issue quickly and I thank my sub-panel members and my 2 officers for their support in that. There is a difference though between speed and being rushed. Sir, going back to the industry it was not always the way. It was not always a Cinderella industry. I repeat it is time we gave back

to farmers the kind of support and self-respect that they deserve. The local production of food and the preservation of the means and the skills to do so must be protected now so that it remains for the future. I for one have a strange and growing feeling that if we fail to change our attitude to farming we do so at our great peril. [Approbation]

## **LUNCHEON ADJOURNMENT PROPOSED**

### **The Bailiff:**

The adjournment is proposed. If Members agree we will return at 2.15 p.m.

## **LUNCHEON ADJOURNMENT PUBLIC BUSINESS (continued)**

### **The Deputy Bailiff:**

Does any other Member wish to speak on the principles? Very well, I call upon the Chief Minister to reply. [Approbation]

### **1.25 Senator F.H. Walker:**

I hope Members will give me the same response when I am finished. [Laughter] Sir, can I start off by thanking all those who have spoken. I think whichever side of the argument one may be on I think it has been a very good debate characterised by a lack, in the main, of personal attacks and a focus on the issues. That, I think, is as it should be and certainly is as this very important topic deserves. Can I also at this stage, and I will do so again right at the end, pay tribute to the work of both Scrutiny Panels although clearly it is the Deputy Ryan panel that is most in focus because of their most recent report in this debate. Before turning to Member's contributions I would like to make a bit of an apology to some Members because as many of the arguments have been made by a number of speakers, I will not necessarily be referring to all the points raised by each one. The debate kicked off with Deputy Le Claire's contribution where he said, and this is a theme taken up by many other speakers during the debate, that now is the opportunity; now is the time to demonstrate our support of farmers and our support of the dairy industry. In support of his argument he quoted a leading breeder from outside Jersey and the quote indeed was highlighted in the Scrutiny Report, that this breeder said Jersey Island bulls are at the bottom of the heap and that is a statement which we should all take serious notice of and I will be very concerned about because that is, of course, exactly the opposite of what should be the case. The next speaker to contribute was Deputy Duhamel and I have to say I found his entire speech both disheartening and depressing. I also found it quite surprising, putting it mildly, that he went so comprehensively against the recommendations of not one, but 2, Scrutiny panels. Basically, what he was trying to say to us was: "Ignore the work of the Scrutiny Panels. Ignore the months of effort that have gone in. Ignore all the evidence they have prepared and responded to and reported on. Ignore them, I know better, so kick out this proposition." Not only ignore Scrutiny but ignore Mr. Bichard, Promar and the many other experts who have contributed to the proposition that we should import semen and sadly came up with no alternative solutions whatsoever other than, as far as I could make out, that we should all adopt a Jersey cow. I do not know how that stacks up in economics or profit terms or industry future terms, but it does not strike me as being a viable way forward for the industry. He also said this is all about economics. Well, it is not. Has it got a great deal to do with economics and the viability of the dairy industry in Jersey? Yes, of course it has, but it is also about the future of the Jersey cow and that is not just an economic argument - it runs, I think, in the blood of all of us much deeper than that. But, of course, what he ignored is the fact - and it is a fact - that if there is no profit in the industry there will be no industry and, therefore, there will be no cow. It does not really matter in that context, although I agree on something as iconic and as important to Jersey as the Jersey cow, the public voice has to be heard. It does not really matter what the public of Jersey want because if the farmers are not there, the producers are not there, the cows will not be there and, therefore, that will be lost to the public and that is one of the prime focuses of this debate. We have to have a viable industry or, irrespective of the views of the public, we will lose the Jersey cow in Jersey and that is exactly, of course, the opposite of what the public

of Jersey want. Deputy Duhamel also talked about the price gap between milk on the shelf in the U.K. and in Jersey, and others have taken up the theme there and pointed out where he did not get his facts right. Basically, here too his argument was, I think, the gap is too big so we may as well give up. That is basically what he said on the cost of food as well, on concentrates - the cost of concentrate is going up far too quickly, of that there is no doubt at all. It is causing real problems to farmers, but not just in Jersey; it is causing problems elsewhere. The problem may be somewhat more acute in Jersey, but it is causing problems elsewhere as well, throughout the world indeed, and here again his answer seems to be we cannot do much about it so we may as well give up. Basically, give up on the industry, give up on the Jersey cow and that is why I found his speech so very, very depressing. Deputy Huet treated us to a very interesting contribution on semen being thrust upon her **[Laughter]** and she said in terms of the Rwanda contribution she wanted her money back because she thought she had been conned. She had been led to believe it was first class semen that was being offered and then found that it was not. What it was, was the best available in Jersey. It was the best Jersey semen from Jersey. Sadly - and it is sad - that does not make it the best semen available from Jersey cows elsewhere in the world and that is the difference, but I do not think she is entitled to her money back as she requested. Deputy Martin endorsed the point that this, as I have already said, not just about economics. This is also about a deep love that the producers have, the farmers have, for their animals and she quoted again another very sad commentary from outside the Island, a leading Danish breeder, who said he has seen no improvement in the Jersey cow in Jersey now over an extended period. She also went on to say, quite rightly, that she - and this applies generally, it is accurate - cannot see the difference between the Jersey cow in Jersey and the Jersey cow elsewhere and I will come on to that with another relevant quote in a minute or 2. She also talked about Guernsey. We have had a little bit of discussion about Guernsey, but the facts are that Guernsey has allowed importation now for 30 years and yet there is no pressure to introduce black and whites in Guernsey whatsoever. She also made a point, that I had not picked up on, that when Guernsey decided whether or not to allow importation it was a very close vote indeed, but now only one farmer is not using imported semen. All the producers in Guernsey - and choice is a word that has been used a great deal in this debate, quite rightly - bar one have chosen, even though they may have initially been opposed, to use imported semen and that must, I think, tell us a great deal. She also made the point that if we do not do this then we are likely to end up with no cows in Jersey fields and what a tragedy that would be for us all. The Constable of Grouville said that this was a matter of heart versus head, that his heart says to him: "Keep things as they are" but his head says: "We must move on" and he is listening to his head and supporting the proposition on the basis that - and again this is where Senators Norman and Vibert and others make a big point - no one is forcing imported semen on any producers in Jersey at all. It is a matter of choice. If producers do not want to use imported semen, if they want to keep on using semen produced locally, then they are, of course, perfectly entitled to do so. We have already agreed that there will be changes, there needs to be changes, to the herd book to allow for those that want to follow the current position to do so as they wish and that is absolutely right. The next speaker who spoke from both his heart and his head was the Constable of St. Ouen and I thought he gave us a very powerful, emotive speech principally from the heart, but also using his head to say: "We must give a future to the dairy industry that I love so much that I have spent so many years as a member of." We have to listen surely to that effectively first-hand experience from someone who has dedicated much of his life to the Jersey cow. He also said that the herd book has to be changed for those who do not want to use imported semen and that is right. He also talked about other herds and saying, as we have always accepted, this is a legal possibility but his words were, financially it will not stack up and citing Guernsey quite correctly as an example. We need to improve to keep up and why should we, the States, deny Jersey breeders the opportunity of competing on a level playing field because that is where they are at at the moment. The playing field, sadly, is tilted against Jersey-based Jersey producers and again that is exactly the opposite of what it should be. But what I really liked about the Constable of St. Ouen's speech was, I think, his closing comment that we should put the Island Jersey where it belongs, which is

top of the world and I could not agree more and, sadly, it is anything but top of the world at this point. Deputy Power quoted Mrs. Anne Perchard who surely has to be one of the most respected members of the Jersey cow community worldwide. We all know what a representative Mrs. Perchard has been for Jersey and the Jersey cow and to have a voice as influential, as experienced and as committed as that, supporting the importation of semen is, I think, of huge importance. We should also listen to Mrs. Catherine Vint, and Deputy Power quoted from the Scrutiny Report comparing her Essex girls to her Jersey girls and what a sad comparison from a Jersey perspective that was. We also heard Mrs. Vint's comments elsewhere quoted in Scrutiny that there is no material difference, despite the fact that her U.K. herd are using semen imported from America and elsewhere, in their appearance. Again, I think that disputes and contradicts some of the speeches that we have heard in this debate. The Deputy of St. Peter argued that the industry was very narrowly divided - 53 per cent in favour, 47 per cent against - and he is right, absolutely right. I made that very clear in my opening speech, but what he did not go on to tell us is that producers responsible for 75 per cent, three-quarters of our milk production, are in favour of importation and that is a crucial figure. Deputy Baudains said we should strike the balance on people rather than cows. I do not agree. I think the number of cows and the amount of milk produced from an Island need perspective is pretty important and I would argue more important than the sheer numbers of breeders who follow one argument or another. The Deputy of St. Martin was one of those who said this is all about giving choice and we need to be thinking of the future. Deputy Lewis said he could not take the risk, but what I - with respect - do not think he has taken full account of is the risk of not doing it. If this was a question of taking a risk on the one hand against a risk-free alternative on the other we would not be having this debate. The fact is that I have become convinced, Scrutiny has become convinced, the majority of the industry are convinced, that the much greater risk to the future of the Jersey in Jersey and of the industry is by not allowing importation. So it is not a question of risk versus risk-free; it is a question of balance of risk and which we feel is the greater for the future. I know, having studied this now for months, very clearly where my view lies and I hope the Deputy might yet take that into account when it comes to registering his vote. The Deputy of Trinity who emphasised, and absolutely correctly, that she comes from a very longstanding and very prominent farming family made a fairly impassioned speech against the proposition, but sadly managed to get one or 2 facts wrong in her speech at the same time. She said, for example, that Americans still come to Jersey to get pure semen. Actually, there has been no sign of a commercial American breeder coming to Jersey for Jersey-based semen for some considerable time. One American breeder, so my information tells me, has come recently, but he is a collector, not a commercial farmer and he wants semen from different Jersey herds all around the world. There is no evidence of commercial demand for Jersey-based semen at all. She also said that this could lead to live cattle being imported. Can I say absolutely categorically that is not the case. This proposition will not lead to live cattle being imported. That is not part of it and we are still under E.U. law able to prevent that happening whether or not the law is changed. The Deputy of St. Mary made a strong speech against the proposition, but again, somewhat to my surprise she has ignored Scrutiny and I know she has very strong views on this topic - has had strong views for a long time. I am quite surprised though that she has so readily, it seems, been able to ignore all the work and research that Scrutiny and others have put in. She said: "I want more evidence." Well, we have 2 Scrutiny Reports, the Promar report, the Bichard report and other reports, and these go back over an extended period. I really do not know how much more evidence we could be expected to put before Members in this debate. Certainly, it seems to me we have more hard facts and evidence in this debate than we have in many others that we have undertaken in recent times. She too said that the public are stakeholders, and they are. I have already referred to that, but if there is no viability in the industry, and this is a means of creating viability in the industry, the public will have no say whatsoever because the cow will disappear to the loss of all of us. She also talked about the opponents and whether or not in effect they have had a fair hearing. I met Mr. Quenault and a number of his colleagues who opposed this proposition last week and we did not agree, but we had a very constructive, amicable discussion. One of the questions I put to them was: "Have you had a

fair hearing?” and the unanimous answer came back: “Yes, we have.” They had no criticism to make of Scrutiny - in fact, the reverse - and they made it very clear that their arguments had been heard, listened to very closely. They knew that and we did not know the outcome and we did not know what the Scrutiny Report contained, but they made it totally clear that they had had a fair hearing and I think that is vital. I will not repeat much of what Deputy Le Fondré said because it is all covered in other ways, but he talks too - as others have done - about history versus the future and emphasised the importance not of ignoring history, but of ensuring that we create history as well in the future by maintaining and supporting the Jersey breed in its Island home. Deputy Baudains will not agree with this comment I know because I bounced it off him already, but basically my interpretation of his speech was that efficiency is bad. That was my interpretation of his speech.

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

I will let him have my notes later.

**Senator F.H. Walker:**

I hope I can understand them better than I understood your speech. **[Laughter]** No one that I am aware of in the industry argues that efficiency is not vital. Again, when I met with Mr. Quenault and others that was a point on which there seemed to be unanimity. We have got to make, one way or another, the Jersey cow more efficient so there is no question in the industry about that. The question is how do we best do it? But in terms of making the Jersey cow more efficient there seems to me to be a unanimous view that that is the case. Deputy Baudains also went on to say this could be the demise of the Jersey cow in Jersey but that is what is happening now. The herds are falling, the profit is falling, and if we do not do something about it, then we will see the demise of the Jersey cow. The Deputy of St. Ouen said that milk importation would be bad and he is absolutely right. It would be worse than bad, it would be disastrous, and, again, I think everyone is agreed that we must do everything we can to maintain the ban on milk importation from elsewhere. The question again, though, is the balance of risk. Yes, if this proposition is approved, we slightly reduce the strength of our legal argument in the E.U. against importation. On the other hand, if we throw it out, we greatly increase the economic risk to milk importation and we greatly increase the risk of that happening, not a risk that I would wish to take. The Deputy also spoke about new entrants and we have to pay a great deal of attention to new entrants into the dairy industry for without them we will not have a long-term industry as current producers retire and so on. I agree entirely, we have to do everything to encourage them but the decision to provide a new, much more efficient, cost-effective dairy and this decision, should we take it, to import semen, will give young people who maybe now do not see a future or have not seen a future in the industry, much greater optimism, much greater hope than they would have had before and, with that, I would sincerely hope that more will indeed come into the industry because we do need them. The age profile of the industry at the moment is not very healthy. Deputy Ferguson made similar points but she also spoke about a consignment of semen being in the wings which is not all Jersey. Well, I do not know where she gets her information from, Sir, but I have had it confirmed to me that there are neither any orders for, nor expressions of interest in, forms of semen other than Jersey so I suspect the Deputy may be listening to scuttlebutt here rather than hard and fast information. Senator Routier gave his full support to the proposition for which I am grateful, as did Deputy Southern **[Laughter]** who unusually gave support for a proposition that I am bringing to the States, but it makes it even more welcome for that. The Constable of St. Martin reminded us all of how wasteful the current culling within the Jersey herd is and was one of those also who compared the Essex girl against the Jersey girl and said it dents his pride that it should be possible for the same producer with basically the same cow but using imported semen in a different part of the British Isles, that those cows should be so much more efficient and so much better at producing milk than are those he left behind in Jersey and he said: “I hope to be able to regain my intense pride in the Jersey cow.” Well, so do I and I am sure that applies to all of us. The Constable of St. John surprised me

and possibly surprised one or 2 other people as well because as a member of the Scrutiny Sub-Panel there was no reference, that I am aware of, to his dissent but he maintained this had been rushed and that pressure had been brought to bear. I was delighted when the Constable of St. Saviour said that in his view that was not the case, because he too was a member of the same panel, and I would emphasise again that the opponents of the proposition have confirmed to me that they were listened to fully and fairly. I am not sure whether he comes out in favour or against, but the Constable of St. Brelade basically accused me more or less of making a smooth presentation. Well, I hope the Constable finds the summing up rough enough for his taste **[Laughter]** but he made the point that no business can stand still and we have to view the effects on the whole Island. I have already dealt with that but I yet hope he will find it possible to support this proposition. The Deputy of St. John again was one of those who concentrated on choice and also talked about change and said that no change could be a lot worse than the change that we are looking for in this proposition and I agree. He quoted one of our leading producers, Mr. Robbie Perchard, who was quoted in the Scrutiny Report as saying it is misguided and dangerous to take the view that Jersey will always have Jersey cows come what may, because if the industry is not viable then, of course, we will not. Deputy Scott Warren emphasised what a difficult decision this has been for her and, of course, it is, I think, for every Member and also drew attention to the fact that so many calves are disposed of currently in Jersey. Deputy Le Hérisier - and I am grateful too for his support - said that if we do not throw the industry a lifeline with this proposition, we will be likely to sound the death knell of the industry and, again, I completely agree. The Constable of St. Peter talked about the Jersey cow being the envy of the world but sadly, the Jersey-based Jersey cow is no longer the envy of the world. I dearly wish it was and I dearly hope it will be again at some point in the future but right now, that is very definitely not the case. One point he made, with which I entirely agree, is that whatever the outcome of this debate, he hopes that the industry will become more united than it is currently and will work together in the best interests of the Jersey cow and Jersey's dairy industry. The Deputy of Grouville made what I thought was a moving and very, very thoughtful speech indeed, and very much it came from both, I hope she will agree, her heart and her head, but she said she was voting for heritage by supporting this proposition, by supporting the Jersey breed, and that was taken up by Deputy Mezbourian as well and I think they both made excellent and heartfelt emotional but thoughtful, contributions at the same time. The Deputy of Grouville said in her view, again with which I agree, a vote for the status quo, in other words, against this proposition, would be a vote against the dairy industry in Jersey. Senator Norman was another of those who said this is about individual choice and about livelihoods and absolutely it is. The people in the gallery, whether they agree with this proposition or not, rely on the Jersey cow for their livelihood and we need to be more than aware of that when we take our decisions. He asked the question, which risk is the greater, changing the legislation or doing nothing? He has concluded, as most people who have looked at this in depth have concluded, that doing nothing is a much greater risk than accepting this proposition. I have already referred to Deputy Mezbourian's speech which I did find moving and she said she is proud of being a traditionalist and she compared the dairy industry with the Honorary Police and explained that the Honorary Police has constantly evolved as it has and basically said that the industry needs to do the same. The fact is there has been massive change in the industry over an extended period now. Sadly, a great deal of that has been negative, declining herds, declining profits, a lack of investment because the money has not been there. Now, what we have is the opportunity to turn that around and make the change in the future positive in the best interests of the Jersey cow and the industry rather than negative. Senator Syvret was inevitably opposed to a proposition that I brought to the House **[Approbation]** and treated us to another nightmare scenario. After hearing that the whole economy of the Western world was going to collapse last week or maybe it was earlier this week, we are now told that if we import semen, then we are looking at the end of the Jersey cow because they will all be dead. What he missed, of course, was a couple of vital points. The herds are reducing in numbers anyway and that has been a steady decline now over an extended period and they could, in fact, reduce much faster if we say no to this proposition rather than saying yes. The Constable of St. Helier talked about his rogue genes

**[Laughter]** and made some very good scientific points based on the fact that the smaller the gene pool, the less resistance there is to disease. Deputy Maclean again talked about economics but also reiterated a point that this is about a way of life and I was delighted that he finds this proposition life-enriching. Senator Cohen, in response to a point raised by Deputy Mezbourian, emphasised that the Environment Director has been leading the advice that I and the team have received and the Environment Director also crucially, together with members of his team, attended with me at the Scrutiny Panel and contributed very meaningfully to the debate. Deputy de Faye may have his figures slightly wrong but made the absolute point that if we do not offer hope to those in the industry, then we are taking hope away. The Constable of St. Saviour, I thought, very neatly somewhat contradicted his colleague, the Constable of St. John, as fellow members of the Scrutiny Panel when he emphasised that no pressure was put on the panel and that they had a very thorough, and have conducted a very thorough, review. He said he came to this conclusion with no preconceived position, as did I, but has now come round to believing that importation is essential. I am grateful to him also for completing the Constable of St. Peter's quote and correcting the balance and for focusing on the safeguards that exist in this proposition and, importantly, he said despite trying their best - I think a point taken up by Deputy Ryan as well - the Scrutiny Panel simply could not find a reason to vote against this proposition or to recommend against this proposition; again, I think, meaningful words. Deputy Gorst talked also about profit being vital and importation being another weapon in the armoury of sustainability for the industry in Jersey. Senator Vibert also talked about choice. The Constable of Trinity, who again is another Member who knows at first hand what he is talking about, being a recently retired dairy farmer, also spoke from both his heart and his head when he fully endorsed the proposition. Deputy Ryan, who I again congratulate for doing a quite superb job, in my view, in leading his panel through an incredibly complex subject in a short space of time in a very meaningful and professional way, is, as we know, supportive of the proposition and he corrected the factual errors in some of the speeches made in this debate and quite rightly focused also on Professor Hall, the adviser to the panel who I have not so far mentioned. Quite clearly, Professor Hall, who was an expert totally independent adviser to the panel, played a big part in getting us to where we are today with this proposition. Sir, a lot of this debate has been heart versus head and that is not at all surprising with something as iconic and as valuable, precious to all of us, as the Jersey cow but, in many cases, the heads have won through. They are both one and the same thing. They are in my case. I am only supporting this, bringing this proposition, because I genuinely believe that it is the best way of protecting the Jersey cow in the future. I genuinely believe it is one of the only ways, an additional way, of ensuring strong, profitable livelihoods for those who have dedicated their lives to the Jersey cow. Sir, I have already spoken about the balance of risk. Which is more risky, doing nothing or adopting this proposition? All the informed view is that there is less risk in adopting this proposition than in doing nothing. There is a greater risk, as I have said already, to our legal position with the E.U. by adopting this proposition, a slight additional legal risk, but totally outweighed by the economic risk of not doing anything and finding that we can no longer supply the needs of Jersey people in terms of the milk that they require and we then have to import. That is by far and away the greater risk. Sir, speakers have said if we approve this, there is no going back but equally, as Deputy Mezbourian said, if we do not approve this, there is no going forward and that, in a way, sums up the decision that we have to take. Much talk about economics and efficiency and absolutely right because that is very much at the heart of this proposition, but there is love and pride, love for and pride in the Jersey cow here as well. I think we all share that, supporters or opponents alike. The problem we have in terms of pride is currently nobody wants our semen. Nobody wants our cows. The number of herds is reducing, steadily, in fact, a quite rapid decline in some years. Profitability is falling. Now, what a dent to our pride that should be. Nobody wants our semen, nobody wants our cows, the number of herds is reducing and this is the Jersey in its own home. We cannot be as proud of that as we should be. We can change that. We can reverse that trend. It will take time, but we can once again make the Jersey cow in Jersey established, as the Constable of St. Ouen said, where it rightfully belongs, right on top of the world. Sir, as I said, this has been, I think, a good debate. The



arguments on both sides have been openly and honestly expressed. It has been a good-natured debate which I am grateful for, and I again echo the words of the Constable of St. Peter when I say that whatever the outcome, I hope the industry will be able to come together more than it currently is and work together in the future in the best interests of the dairy industry in Jersey and the Jersey cow. Sir, I have no hesitation, no doubt at all, in knowing where I will vote, of course, in this proposition. I am voting firmly for the future of the Jersey cow by supporting this proposition and I hope Members will do the same. I call for the appel. **[Approbation]**

**The Deputy Bailiff:**

Very well, the appel is called for. I invite Members to return to their seats. The vote is pour or contre the principles of the Regulations.

<b>POUR: 34</b>	<b>CONTRE: 15</b>	<b>ABSTAIN: 0</b>
Senator L. Norman	Senator S. Syvret	
Senator F.H. Walker	Connétable of St. Mary	
Senator W. Kinnard	Connétable of St. Peter	
Senator T.A. Le Sueur	Connétable of St. Clement	
Senator P.F. Routier	Connétable of St. Brelade	
Senator M.E. Vibert	Connétable of St. John	
Senator T.J. Le Main	Deputy R.C. Duhamel (S)	
Senator B.E. Shenton	Deputy J.J. Huet (H)	
Senator F.E. Cohen	Deputy G.C.L. Baudains (C)	
Connétable of St. Ouen	Deputy S.C. Ferguson (B)	
Connétable of St. Helier	Deputy of St. Ouen	
Connétable of Trinity	Deputy of St. Peter	
Connétable of Grouville	Deputy of Trinity	
Connétable of St. Martin	Deputy K.C. Lewis (S)	
Connétable of St. Saviour	Deputy of St. Mary	
Deputy A. Breckon (S)		
Deputy of St. Martin		
Deputy C.J. Scott Warren (S)		
Deputy R.G. Le Hérisssier (S)		
Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy P.J.D. Ryan (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy G.W.J. de Faye (H)		
Deputy P.V.F. Le Claire (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy D.W. Mezbourian (L)		
Deputy S.S.P.A. Power (B)		
Deputy S. Pitman (H)		
Deputy A.J.D. Maclean (H)		
Deputy of St. John		
Deputy I.J. Gorst (C)		

**The Deputy Bailiff:**

Very well. This matter, of course, has already been referred to Scrutiny, **[Laughter]** therefore there is no need to ask for it again. Chief Minister, do you propose Regulations 1, 2 and 3?

**Senator F.H. Walker:**

I do, Sir, I do not think I need to make any introduction to them. They are, I think, simple Regulations to enact the decision we have just taken so I move the Regulations.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? All those in favour of adopting the Regulations, kindly show? Those against? The Regulations are adopted. Do you propose the Regulations in Third Reading, Chief Minister?

**Senator F.H. Walker:**

Yes, please, Sir.

**The Deputy Bailiff:**

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

**STATEMENT ON A MATTER BY THE CHAIRMAN OF THE CORPORATE SERVICES SCRUTINY PANEL**

**2. Statement by the Chairman of the Corporate Services Scrutiny Panel regarding the review of the Draft Public Elections (Expenditure and Donations) (Jersey) Regulations 200-**

**2.1 Deputy P.J.D. Ryan:**

I am making this statement today to inform the Assembly that my panel has reversed its decision of 17th July 2008 for the Corporate Services Scrutiny Panel to review the Draft Public Elections (Expenditure and Donations) (Jersey) Regulations 200- although there is no doubt that this legislation is severely flawed. Following the statement from the Attorney General yesterday where it was explained that he would not, after all, consider retrospective prosecution, it became clearer to me that the panel's decision to scrutinise this legislation meant that it would not be possible for the States to pass regulations to limit election expenditure in time for this year's Senator and Connétable elections, although perhaps still possible for the Deputy elections. The Corporate Services Scrutiny Panel has no wish to stand in the way of the States making a decision in time for this year's elections.

**The Deputy Bailiff:**

Very well. So on that basis, does the Assembly wish then to proceed with the consideration of the regulations? I take it yes. Very well, Chairman, I invite you to proceed.

**PUBLIC BUSINESS (continued)**

**3. Draft Public Elections (Expenditure and Donations) (Jersey) Regulations 200-(P.82/2008)**

**The Deputy Bailiff:**

There are some amendments, of course. May I suggest that you propose Part 1 first of all and then Regulation 3 and then we will come to Regulation 4 separately.

**3.1 Connétable D.F. Gray of St. Clement (Chairman, Privileges and Procedures Committee):**

Regulations 1 and 2, Sir?

**The Deputy Bailiff:**

Yes.

**The Connétable of St. Clement:**

Regulation 1 sets out the interpretation of expressions used in the Regulations. I will remind Members that this legislation only refers to elections of Senators, Constables and Deputies and no other public election. It would not apply to the referendum. Regulation 2 simply gives effect to the schedule which defines donations and anonymous donations which will be considered later. I propose Regulation 1 and 2.

**The Deputy Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on either Regulations 1 or 2? Very well, all those in favour of adopting Regulations 1 and 2, kindly show? Those against? They are adopted. Then Regulation 3.

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

Regulation 3. A candidate's election expenses are defined as an expenditure that is incurred by a candidate at any time before the poll for the purpose of procuring the candidate's election or prejudicing the chances of other candidates. Although a candidate will normally take decisions on spending himself or herself, it is important to stress that a candidate can also be responsible for expenses incurred by others if this expenditure is undertaken with a candidate's expressed or implied consent. Expenses can be direct such as the payment to a printer for printing of leaflets or the establishment of a website. Expenses can also be notional when services are provided at a discount. The difference between the normal market value of the provision of the website and the discounted price is treated as a donation and therefore a notional expense that must be counted as part of the overall total. Paragraph 7 explains how the shared expenditure will be treated, this being particularly important if several candidates stand on a shared platform or on behalf of a party. The presumption is that the expenditure is shared equally unless the candidate specifically proves that the division was undertaken differently. I propose Regulation 3.

**The Deputy Bailiff:**

Seconded? **[Seconded]**. Does any Member wish to speak on Regulation 3?

**3.2.1 Deputy G.W.J. de Faye:**

Not surprisingly, as we start to move into the body of these regulations, I think we begin to discover some of the really serious issues that are contained within this that I think that Members should concern themselves with because Members, by virtue of being here, are people of honour. Yet we are now talking about expenses which are incurred by the candidate or, as it were, with the candidate's express consent, which I think we would all clearly understand, but also with the candidate's implied consent. Now, I have to say, Sir, I do take rather considerable exception to anybody implying my own consent and I really do not mind who it is who is going to make that determination but what this does make clear is that somebody other than a candidate is in a position to determine what that candidate is consenting to or not. I think this, Sir, moves us into very murky waters indeed at a very early stage, particularly when this notion of implied consent is made pertinent to a whole number of issues relating to expenses. Now, I am not at all sure that this is a helpful way forward. I think that we need to be always dealing with certainties and what may or may not be my own or any other candidate's implied consent I think takes us into a realm of uncertainty which I do not feel very comfortable with at all and I would think that any right-thinking Member would also share a level of concern. We also talk about direct expenses which I think is understandable but alongside, again, another vague concept called "notional" expenses. Now, I am not at all sure, Sir, how I am going to keep track in my election campaign of notional expenses that may have been incurred with implied consent. Quite what territory are we in here? I really think Regulation 3 underlines frankly the requirement for some scrutiny to take place and it is a great shame that the Scrutiny Panel, who, in view of the howling and heckling they were getting, were brave to take the sensible stand that they made, which they now unfortunately have rescinded from to make it quite clear, a view that I happen to agree with, that this is full of holes, unexplored holes. I do not believe that this Assembly or any Member here knows exactly where

these Regulations are taking us and how can they when we are talking about notional issues and implied issues. These are very indeterminate factors and I do not believe it is responsible for an Assembly of legislators to start legislating the indeterminate. I think in principle, Sir, that is a very, very wrong thing to do. This needs to be much clearer and perhaps one of the reasons it is vague is because it is a difficult issue to deal with but so be it. We should nevertheless find the solutions in a clear and positive way and I am very concerned about this particular regulation because it underlines, as I say, areas of the unknown that we are straying into.

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

Well, I just want to put something concrete on these terms that Deputy de Faye has just been mentioning and, in particular, to illustrate some of the problems that may be associated with it. For example, in terms of these notional expenses, these services delivered, I have 150 or 160 members at the moment who want to do something for my party in order to help our candidates get elected. When I ring them up, how are they best to help? I might ring around and say: "Can you deliver a bunch of leaflets, candidates' manifestos, to your street or to your block of flats?" Some might say: "Well, I could, but that would be rather a waste of my talents, I have more talents than that. There are many ways in which I can help you." For example, one of my members, who is a photographer, has always donated his services free because he believes in the party and we get free photographs of our mugshots. **[Laughter]** That is a nominal cost, surely, notional cost. It is his services but he uses it professionally, he lives by his profession which he donates to the party, to the candidate, free of charge, because that is what he can best do and it is a useful service to provide because he believes in the party and believes in the candidates. Ditto. I heard Deputy Gorst saying yesterday: "My friend helped me set up a website." How much, indeed, is that worth? If I employ the Deputy of St. John's company to do it, I wonder how much he would charge me **[Laughter]** but if I employ a friend, my brother -- my son is quite handy -- to set up a website, how much notional benefit is that? That all adds up. Apparently I should be declaring it, I accept that.

### **Deputy I.J. Gorst:**

Would the Deputy be willing to give way? Sir, my understanding is that the Deputy seems to be unnecessarily confused about this issue. If he were employing the Deputy of St. John's firm, then he would declare that as a cost. If it was a friend who does not normally charge for providing such facilities, that would be allowed as provided by a volunteer, so no confusion at all.

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

If I were to suggest that the good Deputy of St. John was one of my friends **[Laughter]** and not just a passing acquaintance.

### **Senator S. Syvret:**

I have heard some implausible statements in this Assembly over the years, Sir, but that has to be one of the worst. **[Laughter]**

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

While it might lose me some votes in St. John, apparently I would not have to declare it, or would I? I do not know, but we are into a minefield. Yes, we are, indeed. I would have to declare it, in which case my bill is already going up, collectively for the party, and individually for me. I do not declare it, I do not have to declare it. Then what are these rules doing because they are ineffective because I can get any sort of help I like just by saying: "Oh, well, this is a party member, or this is a friend, I do not have to declare it." Either the system works, and this is part of the notional assistance being given to me which has a charge with it, or it is not, in which case the rules do not work because I can get any service I like for free from my mates and that does not count. Either way, as I said yesterday, the wheels fall off this piece of legislation as soon as you examine it. This is not just a horse designed by a committee which turns out to be a camel. It looks like a zebra but it does not have any legs. It has no legs, it does not work, it cannot be made to work. It is a

nonsense. I shall be voting against this again and again and again. I hope other people will notice that the thing does not work.

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

Maybe the Chairman could just explain for us to confirm that friends or friends of friends stuffing envelopes will not necessarily be a notional cost because I am sure that that happens on a regular basis where people stand for election. They have friends assisting them in delivering leaflets. On the notional cost of a website, if you do get down to detail, websites vary in value as much as each type of car can vary in value and we need to have a brand. You can create a website yourself and host it on line and if you have a little bit of ability, you can do that for about £50 a month or less, but websites that are more functioning can range into millions of pounds and the States of Jersey knows that because it has seen from its own websites what kind of money that we have to spend on those websites and, indeed, grounding for those websites. So when you get into these sorts of areas, notional expenditure and comparative expenditure, where one would get something for free from a designer, how do you then have a judgment as to how much it would have cost them had they gone to somebody else whose pricing range or whose pricing structure may be completely different from another's? There are many different website designers in town and if you want a £50 a month website, you can get that and if you want a £50,000 a month website, you can get that also.

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

Maybe if I could just ask the Attorney General to hear what I have to say so that I can ask him a question at the end of it. One of the things that most of us are going to have to be concerned about really is the fact that the Corporate Services Scrutiny Panel says that: "Although there is no doubt that this legislation is severely flawed" and I particularly want a lot of this to go through because I think there is a need for it. However, when we have something that is flawed that makes one wonder and worry a little bit about it and also because this is a Regulation and not a law, there is no need for a statement of human rights compatibility and I just wonder here whereby someone can be almost guilty of something without having any knowledge of it. The predicament I would like to mention that one can find themselves in happened to me. Some years ago, someone put an advert in the paper with glowing references about me which I thought were very flattering but I had no say in it at all and I knew nothing about it. The first I knew about it was that evening when I was knocking on doors and someone said: "Well, that is a nice advert you put in there, Bob." I said: "Well, what advert is that?" and I had no knowledge whatsoever. While it was quite flattering, it obviously cost a few pence because it was quite a big one [Laughter] but it was not something that Deputy Le Claire had said which was something opposing what you were doing. This was very flattering and I contacted the J.E.P. (Jersey Evening Post) the following morning and I asked who had kindly put that advert in. They said: "Oh, no, we cannot disclose" so someone had put something in the paper, albeit flattering. It could have been, as Deputy Le Claire has mentioned, about something which could not be so but I was not in a position --

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

It was not me, I did not put your advert in. [Laughter]

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

I was not in a position to know who had done it, who had put it in and yet it was implied. What I would like to ask the Attorney General is where does it put people who find themselves, as I did, in such a predicament? It could happen to anybody. Would I be guilty of something here albeit that I have received something, but implied, but I have had no knowledge of it. Have I been clear, have I, because I found it confusing?

### **Mr. W.J. Bailhache Q.C., H.M. Attorney General:**

Let us start from the basic premise. The prosecution have to prove that an offence has been committed under Regulation 3(2), that a candidate who has been elected has incurred election expenses without reasonable excuse above the limit which is settled. In order to prove that, the onus is on the prosecution to prove that the expenses have been incurred with the candidate's express consent or with the candidate's implied consent, and it seems to me that in the circumstances which you outline, the police would come along to the Deputy and say: "Here is this wonderful advertisement which has appeared in the Jersey Evening Post." Permit me to put it this way, but as a policeman, you would say: "Only you could have put this in, Deputy, because nobody else would have said that" **[Laughter]** and to that you answer: "It had nothing to do with me, I had no knowledge about it whatsoever." When you answer: "I have no knowledge about that whatsoever" unless there is something from which your consent to the insertion of the advertisement can be implied, it seems that the prosecution are not going to get to the point of wanting to bring a prosecution at all because it will not be able to satisfy the evidential test. There must be something upon which the implied consent can be hung.

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

Thank you. What we have is the fact that one has to have guilty knowledge but it is also down to the prosecution to prove it. Thank you very much. Could I just finish on one thing and ask the P.P.C. to answer. Can I ask, is this particular legislation mirrored from the U.K. or anywhere else? Does that word "implied" appear elsewhere, maybe outside the Island?

### **3.2.5 The Deputy of St. John:**

Before I speak, I am mindful of the comment yesterday. I have an interest in this area of business communications so can I declare that interest, Sir? Thank you. I would also like to make it clear that I am not against this proposal at all. I voted for the preamble yesterday. I think we do have to have some restrictions and we do have to have something that is workable as well, and I am in the camp which believes in the principle of it but do not think it is workable in its current form. If this was a Home Affairs proposition being brought forward here, I can guarantee with this type of detail, Scrutiny would have been all over it, Sir. It would have been referred back to be rewritten and re-presented and I do not see why we should change the standards for P.P.C. who should be upholding the highest standard in presenting these types of projects to this Assembly. The notional expenses aspect concerns me a little bit as I do not see any detail in there as to is there a cap, how is it calculated? There is no industry information there as to what price is attached to certain services and goods. Where is the research that says what a website should be worth or what it should not be? I think Deputy Le Claire illustrated very clearly that is a hugely variant subject. Just by way of example, if you wanted to, for example, buy some off-the-shelf software, Sir, you could produce a website at very low cost yourself. However, if your best friend happened to be an award-winning web designer and he was a close family friend, I am sure he would do it for you for nothing, but his time is worth hundreds of pounds. He may do it for you as a favour and, indeed, Deputy Gorst said that that was very much the case in his campaign but that service was probably worth thousands of pounds. Good luck to Members. Calling in these types of favours during election time is all part of that community election and I had lots of favours and help in St. John's. It was a wonderful community election for all the candidates but, at the moment, there is no information there that says this is the cap, this is the limit of what you can value notional favours of that kind, and I think that is a major flaw in the project. Sir, it also comes down to things such as distribution and it was mentioned by another Member. What is the value of distribution if somebody is going to do a big mail drop for you? Okay, you get volunteers to do that, and I had that in St. John's, but is the value of that based on the time and the cost of the postman to do it or is it the cost of the stamp to do it? Again, there is no detail. What is a notional expense and how much value should that have? That detail is not in here and if it is, then it is then covered, it would appear, possibly in part 2 item 4 where we talk about the amount that can be spent; so is a notional expense part of that amount or not? I cannot quite see how it cross-correlates and I really think there should be a lot more detail.

Sir, I was delighted when Scrutiny said they would call it in yesterday because I thought: “Oh, good, they will come back with some detail here so we all know exactly where we stand” and I listened with interest to the Attorney General’s reply. It was what I would expect to hear from a lawyer and a prosecutor but the burden of proof is a key element in a prosecution and I really do not see, in the example given by Deputy of St. Martin, just how you could prove it and I do not think there should be this much grey in something which could be so much more black and white if it was written adequately. I would like to see examples of other laws in other places that have written this before so that we can take good practice from elsewhere. We are told we want to put good practice in here but we have not seen any examples of how it is done elsewhere. When we bring legislation in for other things, we are looking all over the world at legislation and Senator Syvret waxed lyrical yesterday about how this is done everywhere else in the Western world and it should be done, and I do not disagree with him but where are the examples here? Where is the quoting from paragraphs of law elsewhere as to how they have managed to make it work because I think it has to work. It is a good idea but where is the detail? That is what worries me, and I would urge Members to vote against this and bring it back so you can make it work, you can enforce it and candidates can understand it. We might have a better understanding of this because we are Members of this House but for a new candidate coming forward this is a minefield. How are they going to understand this, Sir? It is difficult to understand and I would urge Members to consider that seriously before agreeing to all of these articles because there is not enough detail. I think Scrutiny were performing their function quite correctly yesterday by saying so and I am disappointed that they have not taken it further and come back with the detail as they did very successfully with the bovine semen debate.

### **3.2.6 Deputy C.J. Scott Warren:**

It seems to me there could be a lot of friends around at the next election. Within this article, there is express or implied consent, notional expenses and what we are really talking about, I presume, is real expenses. Sir, we have to ensure in this article and throughout that expenses are expenses are expenses. It seems to me, Sir, that this article and probably all the regulations *en bloc*, must only be passed if they are passed on an interim basis because I believe they are not fit for long-term purpose.

### **3.2.7 Senator S. Syvret:**

The Deputy of St. John, if he wants research and examples, ought to employ somebody to teach him how to use the internet. I would like to quote a paragraph from the first page of the report and it says: “This legislation is initially being brought forward by way of triennial regulations. This is firstly important as it will enable the legislation to be in force for the elections being held this autumn and it will also mean that the legislation can be refined in the light of experience before being converted into permanent legislation that will require the sanction of the Privy Council.” So it is accepted at the outset that introducing a new provision of this nature is bound inevitably to involve a learning curve. That is accepted but you have to start from somewhere and this is as good a place to start as anywhere. Just to deal briefly with some of the points that have been made, I really think that people are making again quite transparently oppositional speeches to the basic principle which are being disguised as technical arguments. Implied consent and notional value are perfectly obvious. A notional value will be the value that might be attached to a particular service or product by the average market rate and what the objectors again, I think, fail to understand is that for a prosecution to even be contemplated, let alone to be brought and to successfully get off the ground, it would be up to the police and then the prosecution to prove that the notional value attached to a particular service by a candidate was wildly below the real market value. So, again, quite clearly, the burden of proof is on the prosecution and the police. We have to start from somewhere and I really hope we are not now going to have to spend the remainder of this day, tomorrow or even next week, arguing about transparently diversionary technical arguments when this is a perfectly adequate place to start our development of election expenditure regulation.

### **3.2.8 Deputy J.A. Hilton of St. Helier:**

I really just wanted to echo the words of the previous speaker. It strikes me, having listened to some of the speeches today and yesterday that there are Members in this House who are trying to think of every single excuse for not approving this proposition that has been brought. **[Approbation]** It just dismays me that there are people in this House who will have a lot more money available to them to fight an election. I do consider myself an independent person. I have not procured services from anyone else and I fund my own elections. I believe that it is extremely unfair that somebody like me and other people out there, who are of limited means, who would like to stand for election, are up against people who can throw any amount of money at their election so I would ask Members please, as Senator Syvret has just said, this is the beginning, okay. It might have to be refined but please support it to enable a level playing field to be available to all candidates in the elections.

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

I have no motive to stall this legislation at all. As Members will know, I am not coming up for election this year. I do agree with the principle of limiting election expenses. However, I do accept that Regulation 3 is deficient with regard to the definition of expenses and I think that has been adequately covered by others, but I do want to talk about the way it discriminates. Currently without this regulation we are discriminating against people of lesser means. Those with greater means can afford to run a jazzier campaign. We accept that but this legislation that is being promoted now discriminates against 2 types of people, Sir, and that is the person who is not currently in this House, who does not enjoy the profile that States Members enjoy. A freshman looking to enter the States will be limited by the same boundaries as Members of States Assembly today and that is a disadvantage that I perceive. They will be disadvantaged. They have a financial barrier that they cannot cross and they do not have the opportunity to use the status as a States Member that Members today have. I also want to mention another group that may probably be disadvantaged if we introduce this maximum limit, and that is anybody with mobility problems who cannot knock on doors, who cannot get around, somebody who may be confined to a wheelchair, for instance. They have to do this through the post by posting letters and it will be more expensive. So there are 2 areas there of possible discrimination if we introduce this Article 3. I just wanted to raise Members' awareness of that and reiterate that I fully support the principle but I think it is important that, rather than rush, we do it properly.

### **3.2.10 Senator M.E. Vibert:**

The previous speaker said he fully supported the principle and argued against the principle for all of his speech. **[Laughter]** In fact, he did not argue about and say a word about what was in Regulation 3 which has nothing to do with whether you are a new candidate or an old candidate or whether you are disabled or not. All that does is the meaning of the candidate's election expenses and I think those are very clear and does what it says on the tin and people are trying to mislead us by saying otherwise. A notional expense is what you would have otherwise paid had you paid for it. It is very straightforward at the market rate and the Attorney General made quite clear that the implied consent and the express consent would have to be proved. I am sorry, this is an attempt to stop the whole thing by those who do not want any cap on election expenses, but I want a level playing field and caps on election expenses and I will be supporting this, Sir.

### **3.2.11 The Connétable of St. Peter:**

The repeated comment from Members on the previous projet that we have just concluded was one of freedom of choice. I just wonder where this one sits with freedom of choice for either Members seeking re-election or, indeed, new Members who are proposing to stand for election.

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

I have spoken, Sir. I wanted to know if I could seek clarification from the Attorney General, because I think this is important and we are being portrayed as people who do not want to support it



when I am quite willing to support this regardless of the fact that I think it is deficient. What I would like to ask is how, for example, when one is trying to identify the weakness of this legislation in a notional capacity does one attribute the value of a website, for example, that has been up and running for a number of years of an existing States Member, come the election? When that has already been designed and is up and running and has been running and continues to run, that is not an expense. Do you have to crash the website and rebuild it and relaunch it and redesign it every time? That is the kind of detail that I find is lacking, not that I am not going to support this and I wish Members would not try to portray us in that way.

**The Deputy Bailiff:**

Mr. Attorney, I think the question was in relation to whether the costs of existing websites would fall within this regulation.

**The Attorney General:**

I think the difficult problem for the prosecution in that sense would be proving that the establishment of the website had been an expense incurred used to promote or procure the candidate's election at the election or to prejudice the electoral prospects of another candidate in the same election. That is the provision in Regulation 3(1)(b) so it is only an election expense if you can tie it to the election. Now, it seems to me that with a website which has been longstanding, it would be quite difficult to say that that website had been set up for the purposes of the election. On the other hand, on the facts, there may be circumstances where you can find a website and you can see that it is deliberately tailored to the election in which case, presumably, the police would be able to establish by inquiry how much it would cost to set up such a website and, using that as a figure, can then compare that with the figure that was incurred by way of expense by the candidate or if it was done for him by somebody else, that becomes the notional figure.

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

I do not know if I should speak under Regulation 3 or when to speak. It is partly to do with Regulation 3 in view of the issues that have been raised but it is really a question of the legislation in general. I voted for the principles of this legislation because I believe that the principles are correct but equally, Sir, it is the duty of this House to pass good legislation and not bad legislation [Approbation] and whether we are passing triennial regulations or regulations or laws, to me it makes no difference. We should not be passing laws which we know to be bad. Now, yesterday, I did not know that the law was bad. I still do not know but I do read a comment from the chairman of the Scrutiny Panel who says in his first paragraph that: "There is no doubt that this legislation is severely flawed." Now, that may be a personal view or may be a knowledgeable view. I have no idea but even worse, Sir, I do not know which aspect of this legislation is severely flawed. Is it this regulation or is it another one because if I am being told by the chairman of the Scrutiny Panel that there is no doubt, it is not an opinion, he says there is no doubt, not no doubt in his mind, there is no doubt that the legislation is severely flawed but I do not know which bit of legislation is severely flawed, I really have a bit of a dilemma. I really do not know quite how to get out of it, Sir, and that is why I say I mention it in the context of this regulation because I cannot think of anywhere else better to say so.

**3.2.13 Senator B.E. Shenton:**

This is getting quite ridiculous. We need to have a cap on election expenses because people can buy their way in and for Senator Le Sueur to say that we should not pass legislation if it is not totally perfect, we passed Homebuyers legislation a couple of sittings ago which has more holes in it than a colander. [Laughter] I understand this legislation. I had a budget for my election campaign. I did not bother with a website because it would have taken me over budget. Quite frankly, I think they are a waste of money. You have your budget, you work to your budget, you know who your friends are, you know when you are paying for something. It is common sense. If

you cannot work out this legislation, I wonder whether you should be standing at all.  
**[Approbation]**

**3.2.14 Senator W. Kinnard:**

I was reluctant to speak but I think I will. I obviously do not have an interest because I will not be standing in the next election, that is well known. I think that what we are dealing with today are triennial regulations and the reason why they are triennial is because there is some uncertainty about how they are going to work in practice. Despite, perhaps, some of the views of other Members, I think it is a good idea that these have been brought forward as triennial regulations so that they can be fine-tuned because I suspect that they will not be perfect the first time round. It is impossible when drafting this type of legislation to be absolutely definitive in absolutely every case about what constitutes an election expense and what does not because the trouble with that sort of legislation where you try to list a number of examples that might constitute an expense or not is that if you miss something out, then it is not included, so it is better to have a wider definition. I would think, Sir, that if perhaps I could ask the chairman of P.P.C. whether, indeed, they have considered perhaps preparing a set of what might be termed “helpful guidelines” of the sorts of matters that candidates should consider when trying to address the matters that are raised in Regulation 3, and perhaps also whether they might be minded to offer some sort of advice clinic. I am particularly thinking of those candidates who are wanting to stand who are not currently States Members who may be uncertain about whether or not a particular item is likely to take them out with the regulations. I just think that if P.P.C., particularly in this first year, when everyone will be learning about how these matters will be dealt with, whether, indeed, they would consider providing this sort of advice and guidelines to any candidates. Sir, people have talked about the freedom of choice and I will just make one point about that, and that is that it is a bit of a no-no because when we are talking about freedom of choice, of course, the more affluent you are the greater the choices you have available to you. I think that there has to be some limit on election expenses. I will not be standing in the election. I do not know whether these would be workable or not but they are a start and I think we have to start somewhere, and provided P.P.C. are prepared to do everything they can to assist candidates, I think this House should go with them.

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

Yes, we have had a very long and important week and this is also important and I am trying to keep this as short as possible, but I am glad we are debating it today because hopefully it will be in time for the elections and we do need to give certainty to candidates. I am going to support this article. I am going to support all the amendments because, in my view, it is a start. It is not perfect but it does start shining a light, if you like, into the areas that we want it shone to bring greater transparency to this area. In my view, I think we are getting into the combination of very devious hair-splitting and some rather unholy alliances developing as well, but we do need to start setting parameters and that is the point. If we are setting a framework, it will not be perfect. It will need tweaking and I think that is the whole point of having the triennial regulations so that they can be reviewed as we go along, so I think Members should be seen to be supporting these in the interests of things like public confidence as well.

**3.2.16 Deputy A.J.H. Maclean:**

So credit where credit is due and I think it is about time that we gave some credit to P.P.C. over bringing this forward. **[Approbation]** My only disappointment, Sir, is that it has been brought so late in the day because, quite frankly, the debate we have just had would have been unnecessary if it had been brought a lot earlier. We could have ironed out any perceived problems but I think I have to agree with Senator Syvret that there is no perfect legislation. I think it is about time we recognised that. This may not be perfect. There may well be holes in it and I think in due course we are going to have an opportunity to iron out the imperfections. I think it was Senator Syvret who also talked about the learning curve with regard to legislation. I would simply ask the Attorney General whether or not, when he is determining potential prosecutions in the future, that

he will have an equally lenient view, bearing in mind that this is going through an evolution in terms of determination, both for existing Members and also for candidates that are new to the process. All in all, and in summary, this effectively is creating a level playing field which is exactly what we should be looking to do and it is going to rely, in my view, partly upon an honour system. It is going to require candidates and those standing for election to demonstrate a degree of honesty because you are not going to be absolutely clear about the actual value of certain websites or pieces of literature and what have you, but nevertheless, the important thing is that it is for once setting out to achieve a level playing field and I think that is absolutely important. Finally, I would just like to add that I thought Senator Kinnard's suggestion of an Idiot's Guide to Elections that she has asked P.P.C. to bring forward is also a good idea and could, indeed, be very useful.

**3.2.17 Deputy I.J. Gorst:**

I think probably most objections have already been adequately covered and adequately answered. It is quite clear that the difference between a cost that one might secure a good at and the market value is the amount that will be declared. It could not be more straightforward as far as I am concerned, Sir. I was surprised to hear my Minister make the comments that he did regarding the statement of the Corporate Affairs Scrutiny Panel and, in actual fact, Sir, I would challenge the Corporate Affairs Scrutiny Panel to say upon what exactly it is that they have based their assertion when they say: "Although there is no doubt that this legislation is severely flawed." Well, Sir, it might be the start of legislation to limit election expenses. It may have some difficulties when it is practically applied but I really cannot, for the life of me, begin to understand how they can make that assertion and, secondly, how my Minister can accept that as being the case, Sir. It is not severely flawed, Sir. I ask Members to support it but I do challenge them to say upon what grounds they make that assertion.

**Deputy P.J.D. Ryan:**

The Deputy who just spoke said in his speech: "It may be that" twice and then he followed by explaining why the legislation was severely flawed himself.

**Deputy I.J. Gorst:**

I am sorry, I cannot let that stand. I most certainly did not say that this legislation was severely flawed or why it is severely flawed, Sir.

**The Attorney General:**

I was asked by Deputy Maclean to comment about leniency. I think leniency and the prosecution tests are not expressions that necessarily go together but there is, in this case, the offence of a candidate whose election expenses exceed without reasonable excuse. So inevitably when the prosecution is reviewing whether or not the evidential test is passed, it is going to look to see whether there is any reasonable excuse and if that is the same thing as leniency, I am not sure that it is, but if that is the same thing, then I can assure you that the prosecution are certainly going to look at whether there is a reasonable excuse or not and that is, of course, whether the candidate is a Member of this Assembly at the moment or not.

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

I call on the Chairman to reply on Regulation 3.

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

I think that most of the objections have been adequately answered by other speakers but I must say that it is quite easy to be destructive rather than being constructive and suggesting there are positive ways forward. After all, the people who think there are a lot of faults with the legislation have had plenty of time, I think since 30th May, to look at it and bring forward amendments. Unfortunately, they have not done so. The Constable of St. Peter mentioned the freedom of choice. Well, I think these Regulations allow everyone to be able to stand, whatever their means, and that is the freedom

of choice that is most important, that anybody who wants to be a candidate can do so. I was asked about the origin of the legislation. Well, some of the words come from the legislation of the U.K. but generally it is the words for Jersey. We have looked at the equivalent legislation in Guernsey because they have had the regulation of election expenses for some years and they seem to be working extremely well on the basis of voluntary returns. I think the Deputy of St. John mentioned about voluntary help. Well, there is no need to count voluntary help because it is excluded by paragraph 6 of the schedule so there is no need at all to have any return for any voluntary help.

**The Deputy of St. John:**

Could I get a clarification on that? Are you talking there about everything from delivering posters for you through to if you have a family friend that is a printer or a website designer? Could you clarify that, Sir?

**The Connétable of St. Clement:**

Yes, I believe it is. It is only if the goods were charged. The notional expense only comes in if the goods are charged and you receive a discount. Whenever the discount is, that is when the notional expense comes in. I or other speakers have covered all the other points, I think, except Senator Kinnard suggested that P.P.C. might consider issuing guidelines and I think that is a suggestion worth looking at and I will ask P.P.C. to do so.

**Deputy G.P. Southern:**

Could I ask a further point of clarification from the rapporteur? He appears to be saying that anything which is given free does not have to be declared, in which case one can have a whole pile of free services that effectively mean you spent £20,000 or £30,000 but it has all been given.

**The Deputy of St. Mary:**

If I can help, I think the Chairman may have misheard what was said. If a good or service is provided by somebody, it is quite clearly said in the document, if for somebody whose normal profession or normal course of work provides a good or service, it is dealt with as a cost. It is only if a volunteer helps in a sort of casual way in the spirit, for example, I think it is given, of walking leaflets round, et cetera. If that person happened to be a mail delivery specialist, Sir, he would have to charge for it. It is quite clearly set out in the document.

**Deputy G.P. Southern:**

So any party member who wishes to offer a service to my party has to charge for it from now on. It is to be declared then as a nominal --

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

If I can help from Chair, I think Members are jumping ahead. The chairman referred to the schedule which we will come to and in paragraph 6 of the schedule which I think will cover the points that Members are talking about, so perhaps it would be more appropriate to wait until we get to the schedule and address these issues. Do you wish the appel, Chairman, or a standing vote? The appel has been called for on Regulation 3. I ask Members to return to their seats. The Greffier will open the voting for and against Regulation 3.

<b>POUR: 34</b>		<b>CONTRE: 9</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Connétable of St. Peter		
Senator L. Norman		Connétable of Grouville		
Senator W. Kinnard		Connétable of St. Brelade		
Senator T.A. Le Sueur		Deputy J.J. Huet (H)		
Senator P.F. Routier		Deputy R.G. Le Hérisser (S)		
Senator M.E. Vibert		Deputy G.P. Southern (H)		
Senator B.E. Shenton		Deputy G.W.J. de Faye (H)		

Senator F.E. Cohen		Deputy S. Pitman (H)		
Senator J.L. Perchard		Deputy of St. John		
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of Trinity				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy C.J. Scott Warren (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
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 D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy A.J.D. Maclean (H)				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

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

Very well. Do you propose Regulation 4, Chairman?

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

This regulation gives the actual monetary limits that candidates are entitled to spend in an election campaign. Arriving at the precise figure has been difficult but P.P.C. notes that with the exception of Senator Norman’s amendment which has a particular focus, no other amendments have been received. P.P.C.’s objective has been to find a figure that allows a campaign to be run but which still means that a candidate of modest means will not be disadvantaged by candidates who are willing to spend large sums on getting elected. I propose the Regulation.

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

Is Regulation 4 seconded? **[Seconded]** Now, there is an amendment to Regulation 4 in the name of Senator Norman, the second amendment, so I ask the Greffier to read those amendments.

**The Assistant Greffier of the States:**

Page 17, Regulation 4: (a) In paragraph (1), at the end of sub-paragraph (a), delete the word “and”, and after sub-paragraph (b) add the following word and sub-paragraph; “and (c) an amount equal to the cost of posting one letter to each person entitled to vote in the election by virtue of Article 2(1), (2) or (3) of the 2002 Law.” (b) After paragraph (1), insert the following paragraphs and renumber the remaining paragraph accordingly: “(2) The amount of expenses permitted by paragraph (1)(c) shall be incurred only for the purposes of postage described in that provision; (3) For the purposes of paragraph (1)(c), the cost of posting one letter shall be the cost, at the time of postage, of posting a letter of the lowest weight and size by reference to which postage costs are determined, by ordinary post, to an address in Jersey.”

### **3.4 Senator L. Norman:**

Clearly, the principle of capping election expenses is right and proper and we have agreed that principle on a number of occasions and the precedent is quite right. Really the only question is at what level should that cap be set and that is a subjective matter but, as he intimated, no amendments have been brought. Therefore it is fairly safe to assume that all Members are happy more or less with the level that the committee has suggested. The one thing which I am very uncomfortable about is taxpayers' money being used to promote the political careers of individual candidates for office, either new candidates or existing Members seeking re-election. I am absolutely convinced that all election expenses should be for the account of the candidate. The only difficulty I have with the committee's proposition is that it is insufficient in most cases for a candidate to post a letter, a manifesto, to each of his voters and I do not think, quite honestly, that that is right. Standing for membership of the States is an important act. It is important both for the candidate and for the electorate. When talking about voting we often say that voting for your States Member is a right, or it is duty, and that is correct. But I think it is also a huge responsibility, because the electorate is being asked to appoint, through the ballot box, effectively, the leaders of our society - leaders who will be making decisions that will affect the lives of everyone who lives in Jersey. It is an important decision - in fact, it is several decisions, because all voters will have the right to vote for 12 Senators at one time or another, a Constable and up to 4 Deputies. It is reasonable, I suggest, that the voters are entitled to as much information as they can obtain about the candidates, and access to that information to be as easy as possible for them. It is important that they get to know the candidates as best as they can - not just the fact that they have personality or not, that they have charisma, or that they are eloquent, but they really need to know, as Senator Ozouf said yesterday, about the policies and what these people stand for - that is new candidates and existing ones. The easiest way to do that, and the most proper way to do that, the traditional way of doing that, is for each candidate to provide each elector with information through a manifesto. Now, not all candidates will have an army of supporters who are able to deliver those manifestos to each and every voter, in order to enable every voter to look at these manifestos or information leaflets and consider them at their leisure to help them to make their decision. Therefore, it seems to me reasonable that, if a candidate wishes to post information to his or her electors at his own expense, they should not be barred by legislation from doing so. That should be totally their choice. Sir, this amendment does not increase the limits proposed by the Privileges and Procedures Committee, because I was very careful to ensure that in the proposition the amount that is allowed for postage can only be used for that purpose. If any candidate decides not to use that amount - to take advantage of this amendment and not post their manifesto - then they cannot add that to their general expenses and use it for other purposes in the election. I move the amendment, Sir.

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

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

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

Until I read this amendment I had absolutely no idea how wealthy Senator Norman is. When I was standing for election I got a quote for posting out leaflets to everyone, and I think it was in the region of £12,000, and that was just for the postage. The printing costs would have been another £1,500, or something or other. So, what we ended up doing was delivering by hand to areas of the Island where there was a large number of houses. The whole idea, I think, of election expenses and limiting election expenses, is to make it a level playing field, and if Senator Norman thinks that, as politicians, we have all got £12,000 just hanging round the bank to spend on elections, I think he obviously mixes with a different type of person than I mix with. I think this actual amendment defeats the whole object of the proposition. I think it is badly thought out, and I would ask Members to reject it.

#### **3.4.2 Deputy G.W.J. de Faye:**

Well, congratulations, Senator Norman. This is one of the first pieces of common sense to arrive this afternoon. For any prospective States Member, or States Member wishing to seek re-election, I see the bare minimum of information to provide to your constituents must surely be a manifesto. There are various ways of delivering that manifesto, and one of the most obvious ones is to post it to individual households. I think Senator Norman has recognised what is the bare minimum. Frankly, in this article that we will doubtless come to discuss in due course either as amended or not, we are looking at some pretty bare minimum levels of expenses. I am very surprised that Senator Shenton does not really understand that it is very difficult, not to say near on impossible, to establish a level playing field in a series of electoral constituencies that do not compare with each other. It is nigh on impossible to establish a level playing field on that basis, and I say that because I and another 3 Deputies represent St. Helier No. 3/4 District. It is the biggest one in the Island, and if the Senator thinks that I can really do justice in electoral and democratic terms with £1,500 and 10 pence for each person, it does not come anywhere near the amount of money that I know I have spent in the past simply to give some basic information to people who are potential voters in my district. Now, it may be a different story in some of the smaller Parishes in the Island where perhaps only 1,500 people live, and therefore £1 on each is probably about right. But Senator Norman has taken us only as far, frankly, as the cost of the postage stamp. There is still the cost of the envelope, there is the cost of buying the paper and there is the cost of having it printed, and if you are very lucky - and I feel sometimes rather lonely here, because clearly most Members have an enormous number of friends - if all your friends get together and help you put all the bits of paper into the envelopes, fine, and that is great. But sometimes you just might have to pay for someone to do that if you are in a jam. Sir, this is not a level playing field, Senator Shenton, and that is why trying to establish level playing field rules can come out with some unexpected and unfortunate results. But at least we have made a small strike forward, and to recognise that perhaps the bottom line of this extraordinary puritanical approach to democracy, sending one letter with one manifesto to each of your constituents might be a good start. I am just amazed that Members of the Assembly think that is the most we should do. I find that astounding, and I am sorry; I am sure that Deputy Hilton has better things to do this afternoon, but I am going to keep bringing up these points, because at the end of the day it is the responsibility of all of us. Our primary role is that of legislators, and we should be turning out good legislation, not stuff that we think might work, or has got a wide enough net to catch things. We should be approving good legislation. In fact, I should remind Members it was not so long ago this Assembly passed specific legislation to say we should restrict legislation that is deemed to be too bureaucratic. We asked ourselves to limit the amount of legislation we are churning out. We will come to things later on, but here we are churning out stuff that is at such a level of minutiae it beggars belief. But I fundamentally support this amendment. It is going the right way. Sir, can I just finish? Because I am sure Deputy Hilton did not mean to mislead the States, but when she was talking about rich people being able to fund elections, she unwittingly, I think, looked at me. **[Laughter]** I do wish to nail this point, Sir, because there is a large number of people out there in the public who think that everyone on the Council of Ministers is a millionaire. Yes, some are. I am not one of them, and indeed, I did not respond to a recent inquiry from the Jersey Evening Post electoral correspondent asking about our net worth because that particular gentleman failed to introduce a category for net worth of less than £100,000. So, Sir, no, I am not a rich man, and I would like everybody to be well aware of that.

### **3.4.3 Deputy A. Breckon of St. Saviour:**

I have some concern about this principle, but I also have some concern about the wording, because what we have been asked to do is to approve an amount equal to the cost of posting one letter to each person entitled to vote. I think the Chairman of P.P.C. said this morning or yesterday, that there were 55,000 electors on the roll. But they do not live in 55,000 homes. They live in 37,500 homes. So, what I could do, in effect, is get this money and do something else with it. Because what it says is - no, I am sorry, it does - it says: "An amount equal to the cost of posting one letter." It does not say I have to do that. What it says further down is: "For the purpose, the cost of posting

one letter shall be the cost.” Now, that is the cost, but I do not necessarily need to do it. The other thing is, is this not a windfall for the post office? I would take a view that if there were 5 candidates in the House who sent us individual letters saying: “Vote for me” I would say: “Thank you very much” and bin them straight away. So, I think as well as being an abuse, I think it is also a considerable waste of money, time and effort. If we look at what this is going to cost, 55,000 would cost, by a quick calculation, £19,250 for individual postings. That is just the postage, and you have to get something in the envelope. So, if somebody is going to stand for Senator, if they are going to do it themselves, putting these things into envelopes, I would suggest they are too late if they have not started already. Then, of course, you have to have labels on them, and you have to fold stuff up, whatever it may be, and produce whatever. But I think, Sir, it sends the wrong message if somebody receives this. If I received this, I mean, I would certainly bin it anyway. I would remind Members that Senator Horsfall did not do that, and neither did Senator Syvret. Question: where did they finish in the poll? So, there is no proof that it does it. Senator Ozouf did, and he topped the poll. So, maybe there are some questions and answers there. Alternatively, a candidate might try and break down the electoral roll; and how do you do that in 4 weeks on your own, to target electors? How are you going to do that? Where do you get the information from? How do you translate that into labels, on to envelopes and get it out? I would contend that not one Member of this House could do that on their own - all right, with lots of friends, maybe. You have to employ somebody to do that. You would have to have a commercial agency to do that. Now, if you look at what else you are allowed, for a senatorial you are allowed £2,500 plus 10 pence per elector. So, in other words, that is £8,000. You cannot do it for that, I would contend. You cannot do it for that. So, where is this leading? I think it is leading nowhere. I think what it is doing is, it is leading to a possible abuse by somebody to spend lots and lots of money on a campaign. Deputy Hilton mentioned the size. I think it is 8,000 in 3 and 4. Again, it is very expensive for somebody to do that in that district. It can be done. It is not easy leafleting door-to-door, but it can be done. Again, if you think of the cost for St. Helier, probably a St. Helier electorate of about 20,000, I would guess, how would you do that? You need to have a cut-off point for the electoral roll, and you need to generate this. You cannot do it on your own. I would suggest you have to buy something in to do that. The other thing is, if you then have an introductory letter: “This is me. I have got all these policies. How wonderful it is going to be”, and put electoral roll numbers on, again this is intense work and there is a cost to that. I think what P.P.C. is proposing is something that gives access to everybody. It would be a, sort of, general information leaflet, call it what you like, which is inserted into the J.E.P. Not everybody buys it, but it is available elsewhere, and I would think it would be done in a timely manner so it is available, I do not know, say, 10 days before an election. If that was known, there would be some deadlines in there. I will not support this amendment, Sir, as Members have probably gathered, because I think what we are doing is, we would exclude many people who may have something to offer the electorate and, again, we would allow people with the money, with the clout, to have an advantage which I think is unfair.

#### **3.4.4 Senator S. Syvret:**

My election expenses last time round were the grand total of £2,000, which was on 2 full-page ads in “the Rag”, each costing £1,000. Now, of course, that is not necessarily a valid comparison, because, you know, I, as indeed a lot of other Members of Assembly, already have quite a high profile. So, you know, one can see that there is an argument for people wanting to spend more than £2,000 on a senatorial election if they are not known. But I think the Regulations as drafted are those that we should be supporting. I really hope we are not going to waste hours and hours here, just debating a lot of pointless racking amendments, which is precisely what this is. If this amendment gets carried, then Members would have just basically destroyed the principle of the law that we have just discussed, and the Regulations we have just passed. It would be placing a massive spend capacity, spend possibility, in the hands of very wealthy candidates, that most people simply could not aspire to. It defeats the object of the law, in fact, to such an extent I am surprised it was even deemed in order. I suspect if I had tabled it, it would not have been.



**Senator J.L. Perchard:**

Sir, can I ask a point of clarification? I have never heard of “The Rag”. Could the Minister explain what ...?

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

No, Senator. I think we all know what the Senator is referring to.

**3.4.5 Deputy J.A. Martin of St. Helier:**

Well, we are back to where I think I started yesterday. I do not have much more to add. Deputy Breckon has said it all. Deputy Norman - Senator, sorry - at least he was Senator, and especially if he can spend £19,000 on postage, I am sorry, he will probably remain in the States. But I am very sorry. This even goes worse than some of the campaigns that ran last time. I mean, yesterday morning, Sir, I mentioned the Senator who is not here today that, you know, did try this 6 years ago; and I got a very detailed note from him to say that he did not post to every person, it was households; he hand-delivered some, and he could not possibly afford to do that. But here, you know, if you can afford it, you are allowed to use the electoral roll, and if there is me and my husband and 3 or 4 children, we will all get posted. This is where this is going. Well, as I said yesterday morning, people will vote for the principles, and everyone who does not like it will come up with their excuses. We have heard from Deputy de Faye: he cannot possibly manage; he has not got any friends. Well, as the saying goes, so he should get out more, and perhaps more in his district, and start walking round it, and find some friends, and get these places delivered. No. I am very sorry, Sir. I cannot support this amendment. You are talking about thousands and thousands of pounds; whereas if a Senator cannot run a campaign and get elected on nearly £8,000, well, he should not be in the House. Sorry, Sir.

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

I too feel sorry for Deputy de Faye, Sir, to have no friends and family - no one willing to assist him in his election campaign either.

**Deputy G.W.J. de Faye:**

Sir, I will accept donations below £100. It would be notional, Sir.

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

I was surprised by previous comments also by Senator Perchard, Sir, who seemed to believe that a sitting Member in this Assembly started out with an advantage. I rather thought the opposite was the case. I am having difficulty, Sir, following Senator Norman’s reasoning, because if I catch his drift correctly, it appears he believes that the more a candidate spends on his election, the more suitable he or she is for the position of a States Member. Well, that may or may not be the case, but I thought the whole purpose of this legislation was to ensure that States Members are drawn from across society, so that means are not taken into account; so that it is not only the wealthy section of society who are represented in this Assembly. I thought the sum was £17,000, but Deputy Breckon advises us it is over £19,000 to send out a personal letter to your constituents if you are standing for the post of Senator, and of course, as he pointed out, which I must admit I had not realised before, of course you do not have to spend that money on the letter - you can spend it on whatever you like, which seems to be ...

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

If I can just avoid a hare running, Deputy, from the chair. Paragraph 2 makes it very clear you can only use the money for the postage. So, you would not be able to use it if you did not use it there.

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

I thank you, Sir. Sorry for misunderstanding that. But the mere ability of some people to spend the cost which is an unknown quantity, as people have pointed out, for not only the postage, but the

other work that goes into it - we are looking at £19,000, £20,000. That is going to be a disadvantage to many people. It blows a hole right through this legislation, Sir. I have to say that the figures that were arrived at by the Privileges and Procedures Committee are generous. In fact, they exceed by some margin, the figures supplied to the committee by States Members and what they spent last time. If it is now considered that the figures are too low, all I can say is it is because the Members told the Privileges and Procedures Committee some porkies. Maybe we need the legislation more than we imagined.

#### **3.4.7 Deputy J.A.N. Le Fondré:**

Yes, I am glad for the clarification in (b)(2), because I was going to make that very point. Originally I was not going to support this when I first looked at it, because I agree with a number of people concerned at the level of funds, and would much prefer this to be defined on the households run by the elector. However, I think it was the Constable of St. Saviour who made the point that it is not always easy, due either to health or time sometimes, to walk a Parish, because there are different levels involved here. But unfortunately it is an all-encompassing amendment. Basically, we are talking about the price of a stamp for each elector, and obviously it cannot be spent anywhere else. I would prefer not to be supporting this. I would prefer it to be less. Given that this is first time round and may not be subject to review, I am going to.

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

Oh, well, here we go again. Right. What I am always faced with here is a very stark although simple choice. It seems to me that all in the Chamber, possibly with the exception of Deputy de Faye, are in favour of capping election expenses. The principle, yes, fine. We must have a level playing field. All we have got here is an amendment that says: "But, whoa. That is unreasonable. The level should be up here, around £28,000, because we want to admit that we cannot cap election expenses effectively in the manner that is shown." Hence the amendment. "Do not bother attempting it, just allow this level of money, and let us get on with it." The alternative, of course, is that you let Article 4 go through, and as you come to Articles 6, 7 and 8 and onwards, you find all the holes in the legislation that you can drive a coach and horses through, which admit you cannot effectively do this and go for Senator Norman's amendments; or be complete hypocrites and suggest that we are trying to establish a level playing field, knowing damn well the whole thing has not got any legs and cannot be made to work. We can drive a coach and horses through it. So, we can pretend we have got a level playing field. Because, time after time, it seems to me, in my time in the House, I have noticed this tendency for this Chamber to suggest that what we must do is be seen to do something about X issue, without making sure that it is effective. Be seen to be doing, or pretend to do, something about X or Y, while effectively knowing that what we are proposing will be ineffective. That is the choice we have got here. So, no, I cannot accept this amendment. It is ridiculous. It does cater simply for the wealthy, and I do not wish that at all. But neither can I vote for the rest of it, because as far as I am concerned, it is just hypocrisy. It cannot be made to work, and I think, in our heart of hearts, we know it.

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

I will not be supporting this amendment. I think it is unworkable. As a matter of fact I think it is nonsense, but with all due respect to Senator Norman. I do think P.P.C. are and were going in the right direction, and I will continue to support them. So, the sooner we get back to the main business, the better. Senator Syvret said that in his last election 3 years ago, he spent I think he said somewhere in the region of £2,000, although he acknowledged the fact that he had name recognition. I think there are 3 other Senators, one who stood in 2002 and 2 who stood in 2005, who also spent somewhere between £2,000 and £3,000, and I think that is realistic, and I think that is achievable, and I think it is something that we should attain.

#### **3.4.10 Deputy C.J. Scott Warren:**

Sir, what we are discussing here is a level playing field versus the amendment of minimum information to constituents. So, the problem I have is that I support the principle behind the amendment of the information from each candidate going to each constituent, but obviously, Sir, for the senatorial elections in particular, this would mean there could not be a level playing field. Sir, it is interesting and very relevant, I learnt through the earlier debate that we had on this, that in the U.K. there is a free service given to give this information to all the constituents in a general election. Now, as a result of finding that out, I would like to ask - and I realise it might not be the same people in Privileges and Procedures in the future government - but I would like to say, has it been thought of already of a bulk mailing of leaflets, maybe done by the States but with money from the candidates going into it, to send out bulk leaflets on behalf of constituents? Is that a possibility or not? Because I do see that if we support this amendment we are breaking the whole purpose of these regulations. I have to disagree with this, because it is a fairly minimum thing for a leaflet to arrive through a door for constituents. I think there must be a third way.

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

I thought the purpose of these proposals for the amendment was that we were going to get away with having potential elitism. Everybody is getting the opportunity, and that is why there was going to be equal amount covered in a separate supplement, where the whole of the Island will read the local Evening Post, and others could obtain the supplement from the parish halls, Cyril Le Marquand House, et cetera, et cetera. Now we have got a proposition that allows for candidates, like before, to post their own if they choose - which, then, changes the advantage. So, in effect, what happens is the status quo, plus the States paying a whole load of money for a pullout, which I disagree with. If you are going to have an equal, then have an equal. I think that it is important to curb it, because as I said before in my previous speech, there is an awful lot of different styles and different methods, but sometimes it was getting ridiculously out-of-hand; i.e., the 8-foot by 4-foot banners of marine ply on traffic islands, and things like this. On the other hand, I take the Constable of St. Saviour's point about if you are less able to go and deliver - and people get older, people are infirm, et cetera. But we did have a candidate who stood for Grouville, and she was very proudly telling me of how she got around to get to her electorate and she did not need to post, and she had the support of her husband and friends, et cetera. So, it can be done, and I am sure there will be ways that that could be included in future quite well. But I do not think that this particular amendment at the moment is going to do us any favours or any justice, because it does not achieve what I think Senator Norman is trying to achieve. It is a halfway house, and I think for this particular election we will try it out without it, if it does not go through, and then maybe look at it again with a new House when there will be time to bring in proper principle laws to put the safeguards in that I know that P.P.C. was hoping to do, or would wish to have done, on this occasion, but did not have the opportunity through time to do it.

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

There seems to be a view prevailing that if you are wealthy enough to post manifestos to constituents, you will thereby buy your way into an election seat. I really just do not follow that argument. Unless the electorate believes you are capable of doing a service to the Island, they will not elect you. No matter how many letters you may post them, no matter how glossy it may look, it is what you can or cannot do that at the end will decide. So while I understand Members' views that in one way this could create an unlevel playing field, it might be that denying this amendment simply creates another unlevel playing field between those who are fit enough or have enough friends to go around or whatever means they choose to get the message across and others, maybe, will be unable to do so. But surely, what the most important thing here is that the public, the electorate, are fully informed about all the candidates. If one of the options to do that is by a candidate who so chooses to post to some or all the constituents as part of his manifesto, in the hope that that will thereby encourage the public to read and understand who they are voting for, I fail to see that that can be a bad thing.

### **3.4.13 Senator M.E. Vibert:**

I thought I had, hopefully, pleased Senator Norman by answering some of the points he made in his opening address. The principles and regulating the amount have been mentioned but Senator Norman, and I agree with him, said one of the reasons he wanted to do it is he wanted all electors to have as much information as possible and at the very minimum as a manifesto. P.P.C. were very aware of that. We have had protracted correspondence with Jersey Post trying to work out a way in which we could sponsor a mailout by all candidates. That has not proved possible, which is why P.P.C. are sponsoring a J.E.P. insert for the elections because we see it as the next best thing. It gets to nearly all the people in the Island and it will give everybody a chance to put forward their views and it will also be available from Parish Halls, et cetera. Also, there will be a website that people can put their views on and the latest figures show that most people, the majority of people in Jersey, now have website access. The alternative is Senator Norman's way. A choice, as he put it, of posting out your manifesto; a choice, that is, if you have £15,000 plus to spare. So it is a choice for the rich and no choice at all for everybody else. Is that what we voted for when we agreed in principle to regulate the amount candidates can spend on their election campaign? I do not believe it is and I hope the majority of Members do not believe it is. It would set the barrier far too high; it would give far too great an advantage. It is not a question of whether this would buy your way into the States, it is a question of choice and only the rich would have that choice, everybody else would not.

### **3.4.14 The Deputy of St. John:**

What Senator Norman is trying to do here does ride the coach and horses through the principle of capping election expenses, I am afraid. I have to say that because I have said all along in this debate that I am in favour of capping, but it is capping at the right point and that is where I think we are wrong here. There is a fundamental issue here where we need to inform the public of what we are about. I really feel P.P.C. should have worked harder at finding another way of doing that. Deposits is one way, for example, of providing a fund so that you can then spend that on the election to inform the public. In the U.K. and other places, of course, they have the party system. The party is funded and the party then helps the candidate to get the message out and that will often be done with direct mail. We do not have that here and in the absence of that there needs to be other ways of informing the public. I do take seriously the comments of Deputy de Faye where what he was really saying was the cap is too low in a constituency like his, therefore, consequently, it is not working. The cap that we have derived from this projet here is simply not enough; it is not well constructed in terms of the research that was gone into. How did we arrive at that figure? This is where the projet is fundamentally flawed. It seems to have been based on information given to P.P.C. on what candidates spent last time. Now I do not think that gives a true picture - that was last time. What about all the other candidates coming forward? Where is the information there about the real cost of the items that we have said are needed to have a successful campaign? It is simply not there. I think the fundamental flaw with the projet, for me anyway, is the current cap. I agree it should be capped but let us do it properly; let us engage with the public, let us increase voter turnout. We are suggesting here at the moment that we will have an experiment in the hope that this is the start and it will work. The Chairman of P.P.C. quite rightly, in the elections last year, was very disappointed in the level of voter turnout. Now, voter turnout is driven by publicity, to a certain extent, and clearly that is not quite right at the moment. We are doing something else here that is going to dampen that activity yet again and it is an experiment. I do not think all the components are there. Do we want to run the risk of having a lower turnout at election again than last time? I do not think so somehow and that concerns me. The cap on the expenses for some constituents in particular is far too low. I have been working in St. John's --

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

Sorry to interrupt you, Deputy, it seems to me you are talking to Article 4 and at the moment we are on the amendment. You are coming to that, are you?

**The Deputy of St. John:**

Yes, I will talk further on the amendment, if I may, later but in principle. I am sorry, I cannot agree with Senator Norman because it removes the level playing field that you are trying to achieve but we have not gone far enough with item 4 to achieve it; that is what I am trying to say, Sir.

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

Does anyone wish to speak on the amendment? Then I call on Senator Norman to reply.

**3.4.15 Senator L. Norman:**

I think just for clarity because clearly Deputy Breckon and Deputy Baudains misunderstood the amendment, the additional monies can only be used for one 35 pence stamp for each member of the electorate. Any additional monies could not be diverted to any other purpose. The other general election expenses, such as printing, envelopes, posters and so on, would be from the allowance that the Privileges and Procedures Committee are recommending. Deputy Breckon did have some suggestions of other ways that these leaflets could be distributed and he mentioned the Jersey Evening Post, which I think is the same organ that Senator Syvret mentioned a few moments ago. If you do place leaflets in there, and at one election I certainly used that service, it is somewhat haphazard and certainly untargeted. Very often these leaflets will disappear before the Evening Post is delivered. The leaflet inserts will very often go straight in the bin. So it is not a terribly effective way of targeting the electors. Certainly, my proposition does not interfere with the Privileges and Procedures' proposition, the amount of the capped expenses remains exactly the same. This is an additional amount if the candidate wishes to take advantage of it. Deputy Scott Warren made a very important point and asked what happens in other places. Well, certainly in the United Kingdom it is my understanding that the Post Office there is required to deliver a letter, if the candidate so wishes, addressed directly to each and every voter as part of their public service obligation. That democracy recognises the value of direct communication from the candidates to the electors. That public service obligation is not available in Jersey. I was rather interested that Senator Vibert, a member of the Committee, recognised that this direct communication from the candidate to the voter is the best way; that was their preferred option. But they say: "No, that is the best option - that is the right way to do it - that is the best way to do it - the best way to impart information but, no, sorry, we are not going to allow you to do that." That is the preferred choice of the Privileges and Procedures Committee. It recognised in most places it is the best way of communicating with the voter but they say: "No, we are not going to let you do that." Senator Shenton said something quite interesting and quite wrong. He said he did not realise how wealthy I was. Well, I can assure him that I am not wealthy and in a senatorial election I could not possibly afford to post a leaflet to each and every voter, something I have never done. I am one of those fortunate individuals that I have quite a few friends and quite a few supporters who have managed to deliver those leaflets for me, and I am very sorry to learn that Senator Shenton is not in such a fortunate position. But as he is not in that fortunate position, I have the advantage over him of being able to communicate directly with every elector. Why should he be debarred from doing exactly the same thing if he so wishes, either in a Senatorial election, a Constables' election or Deputies' election? That would create a level playing field. I maintain the amendment and ask for the appel, Sir.

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

Yes, very well, the appel is called for on the amendment of Senator Norman. I would ask Members to take their seats and the Greffier will open the voting for or against the amendment.

<b>POUR: 9</b>		<b>CONTRE: 26</b>		<b>ABSTAIN: 1</b>
Senator L. Norman		Senator S. Syvret		Deputy C.J. Scott Warren (S)
Senator T.A. Le Sueur		Senator W. Kinnard		
Senator J.L. Perchard		Senator P.F. Routier		
Connétable of St. Saviour		Senator M.E. Vibert		

Deputy J.J. Huet (H)		Senator B.E. Shenton		
Deputy of St. Ouen		Connétable of St. Clement		
Deputy G.W.J. de Faye (H)		Connétable of Trinity		
Deputy J.A.N. Le Fondré (L)		Connétable of Grouville		
Deputy of St. John		Connétable of St. Brelade		
		Deputy R.C. Duhamel (S)		
		Deputy A. Breckon (S)		
		Deputy of St. Martin		
		Deputy G.C.L. Baudains (C)		
		Deputy R.G. Le Hérisier (S)		
		Deputy J.B. Fox (H)		
		Deputy J.A. Martin (H)		
		Deputy G.P. Southern (H)		
		Deputy S.C. Ferguson (B)		
		Deputy J.A. Hilton (H)		
		Deputy D.W. Mezbourian (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy S. Pitman (H)		
		Deputy A.J.D. Maclean (H)		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

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

Very well, the debate resumes on Regulation 4 in its original form. Does any Member wish to speak on Regulation 4?

**3.5 Deputy J.A. Hilton:**

In the 2005 election I had the misfortune not to be fully mobile and under this Regulation, of course, if that happened to me again this year would be a big disadvantage to me because, as has been mentioned previously, the district of St. Helier No. 3/4 is a very, very large district and I was not able to get round to every single house like I did in 2002, so I had to rely on posting most, in fact all of my manifestos. The amount of money that is being given to candidates under this Regulation simply would not be enough for me to do that this year. I spent the barest minimum on my election campaign in 2005 but in saying that I still spent the sum of £3,000. Postage alone was about £1,600 and to achieve that postage I spent, with my family and friends, sifting through 8,000 leaflets and putting them, where I had 2, 3 or 4 electors in one household, in one envelope so I was saving money wherever I could. But in spite of that fact, I voted against Senator Norman's proposition because I believe it was unfair and it put the senatorial elections completely out of reach of a lot of people. I am prepared to accept this Regulation and I will vote for it.

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

I am going to hold my line on this in that I just do not feel the amounts are sufficient enough. I just want to give you a quick list of the sort of things that a basic requirement should be for informing the public of what you are about. I accept that some of this can be given by way of donation, but that will have a value, in some instances too because it is not all going to be produced by somebody on a home computer at home, some of it will be donations from firms that wish to help the candidate. If you wished to look at a list of things that many Members here would have produced and added it up it would well exceed the amount in some districts. When you have got more people in your district then the economy to scale is working in your favour and that is my objection here. To produce the basic requirement, in my belief, to inform the public in a small district would cost the same as it would in a slightly larger district because of the economy to scale, particularly in printing. In other words, your first 1,000 leaflets cost considerably more than your next 4,000; that

is just the basic principle of printing, the run-on cost. So that is my objection. I really do not believe that the limits of £2,500 and £1,500 when you're working, particularly in a small district, is sufficient. When you wind it up to senatorial you end up with a purse of only about £8,000 or slightly more. Then you can produce those items and if you then choose to distribute them in the way that we have been discussing, which I think is great - great community spirit there as well - then you can do it. But in a small district, particularly in Deputy de Faye's district, that is almost impossible because if you start producing your manifesto, you do some photography, perhaps, car stickers, posters, different sizes - my prices are only in 2 colours, I am not going full colour, glossy brochures here - calling cards, you may wish to run some advertising in the press - a lot of Deputies did, one or 2 adverts, that was all, just small ones - some rosettes, some letterheads maybe. There are other things I may have missed out that Members have done. If you add that up truly then you have got a lot more than this. The basic level to get the economy of scale I am talking about is between £3,000 and £4,000. Some of that Members may not have spent but they would have got it donated. Deputy Gorst yesterday spoke about £1,000 and then a lot of donated help which, in my calculations, would have, again, got back up to about £3,000. That is what I want Members to think carefully about. I would like P.P.C. to bring that article back, if it was possible, with more research, with more background information to prove that their figures are right because I would not want Members in marginal and smaller constituencies to be disadvantaged. We are talking about a level playing field and these figures do not quite do that. I do fully support a cap but there is no science that I see that says this is the right cap and that is my concern. The science I have applied would suggest to me that it is just not right. It is getting close but it is not right and members and new candidates should not be disadvantaged as a result of that. So I would urge Members to think very carefully about that cap. It does not need to be that much more but it needs to be more and I think Members should be very, very careful about this Article.

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

What a pity the previous speaker does not pay attention. When I spoke previously I did point out that the Privileges and Procedures Committee invited all States Members to declare to them what they spent at previous elections so that we had guidance as to what the proper figure was. The figure we have set is well above that. So either the States Members were telling the Privileges and Procedures Committee things that were untrue or at the present moment States Members are inviting their colleagues to allow a sum which is, in fact, not required. What the Privileges and Procedures Committee did was set a sum quite substantially, in fact, above even the highest figure that any Member had submitted and, of course, on top of that there was to be the free distribution of leaflets anyway. So the argument that somehow this is not enough money is simply ridiculous.

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

Can I get some clarification from the Deputy there? In the submissions of candidates' expenses did that include 'in kind' help, Sir? I suspect not but perhaps you could answer that.

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

I am sure the chairman could touch on that in summing up. Deputy Scott Warren.

### **3.5.3 Deputy C.J. Scott Warren:**

Well, I have visited probably the larger part of the constituency before when I stood for election but I still could not -- and for people who were not there I put a slip of paper through the door. But still, because of time constraints and because I could not get to every single place, I did post out a leaflet via the Post Office and in a district such as St. Saviour No. 1 the amount allowed may well be sufficient. But I do believe that for a larger St. Helier district, and obviously for senatorials, this would not be possible. I think these amounts are not adequate for many candidates standing for large districts and the Island mandate. But it is a question, it seems to me, of us supporting this now and having some regulations, and obviously we will learn from this for following elections, or saying: "No, sorry, we are not going to run with this" and having nothing in place, and I cannot see

that anything can be adjusted now before the election in amounts. So, I think it is either we go with this or we do not. I would like to ask the Attorney General or the Chairman of Privileges and Procedures, whether a venue for after an election for evening drinks to celebrate or to commiserate would be included because I did include that when I sent my expenses last time. I would like clarification, thank you.

#### **3.5.4 Deputy G.W.J. de Faye:**

It has been very interesting to listen to the various canvassing techniques that have been exercised by Members, but simply on the basis that it is possible for a significant number of members of the Assembly to go round and knock on all the doors of their Parish does not mean that that can be done by every Member of the Assembly and it certainly could not possibly be done by Senators who have an Island-wide mandate. So I think we have got ourselves into a very strange and awkward position here where we appear to be somehow legislating for the lowest common denominator in canvassing techniques, which is by imposing these types of constraints and expenses. There will be no other option for anyone who wishes to be a States Member other than to adopt the knock-on-door technique. I have to say, if Members and prospective candidates wish to do it I have nothing against that but it does not seem to me this is really taking us very much further forward in the 21st century, an era, if it will be known for anything else, it will be known for changes in communication. This seems to be just tying us down. Now, I am a broad-minded sort of person, I would happily take a creative approach, but if we really want a level playing field we should simply say there will be no communications issued by post mail, candidates will simply stand in the Royal Square for one hour from midday for a week before the elections and anyone who is interested can go and talk to them. That would be a fair way of doing it. That would be a level playing field. But is that really sensible in today's communications where people want information, want to know things? Getting information out; and the Chief Minister will be the first to confirm this, communications is an expensive business and he has had to build his Communications Department up and we all know, ministerial departments as well, the value of communications and we all know that it costs money. I am grateful for the straightforward perspicacity of the Deputy of St. John who understands full well the differences between trying to apply this to a small Parish and trying to apply these particular expenses limits to the biggest constituency in the Island. I must correct Deputy Baudains because he never really quite gets it right but tries hard, he has overlooked in his calculations that some Members, while invited to submit their election expenses, in fact, did not, and I was one of them. I am not going to say that my election expenses were particularly higher than the figure we have come up with, nevertheless, what I will say is I tried knocking on my doors but 8,000 is a lot of doors to knock on and I have to admit failure. I failed to knock on all those doors. I managed to stuff an awful lot of manifestos through an awful lot of letter boxes but at the end of the day I had a few thousand left and what was I going to do? Really, the only way to dispatch them appropriately to people I felt might be interested in knowing what a potential candidate for them had to say, in terms of what he or she might do, was to post all the ones I was unable to deliver personally. But I am really going to struggle to do that with these types of numbers I am being offered. I am afraid £1,500 for election expenses in St. Helier No. 3 is a pretty tight margin compared to a smaller country Parish and how on earth Senators are going to be able run serious informative election campaigns that, quite frankly, give the public the sort of information they ought to be getting about the candidates, how are you going to do that on £2,500 plus 10 pence per elector? I think it is going to be a struggle. Now, I think there is going to be a number of strange spin-off effects of this, one of which we are clearly going to see because of the constraints of these expenses, Members with lots of so-called friends are going to find life an awful lot easier than those with not so many. One of the real anomalies - is this the P.P.C. subplot and conspiracy or not, I do not know - is this is going to favour political parties. This is clearly going to favour political parties who will find it much easier, because of their construct, to organise groups of like-minded friends to act together and distribute leaflets on a voluntary basis, thereby avoiding all the declarations. So before us we have



most extraordinarily, here we are, we know the Island appears to have some sort of resistance to political parties and yet we are devising an interesting way of reducing election expenses which has an inbuilt subtext of bias towards them - most interesting. For those of you who wonder why there is an unholy alliance between me and Deputy Southern, it is because the approach contained within this whole proposition is favouring the abilities of political parties against individual candidates. I am sorry I see one or 2 Members of P.P.C. shaking their heads. You know, this is where I have to say I think you have got this completely wrong. You have devised something that you think, the Privileges and Procedures Committee thinks is going to somehow favour the lowest common denominator, the person who has hardly got any money at all but really what has been contrived here is going to favour political party groupings. So for those of you who are puzzled about why I am suddenly onside with the J.D.A. (Jersey Democratic Alliance), that is one of the reasons but it is not the only one. I think if Members begin to understand (1) Regulation 4 is placing very unfair constraints on some Members while other Members may be able to wear it; and (2) it is going to have some very novel spin-offs in terms of unexpected outcomes.

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

I think P.P.C. have designed an initiative test and we are hearing that some Members have possibly failed it before they started. It is not beyond Members' wit and imagination in districts where there are more than 4 or 3 candidates to combine their collective monies and to share an envelope. Yes? It is not a party, it is not banned and it is something that, perhaps, was suggested as the way forward for the senatorial elections, although we have not quite got there, but certainly, if there were a number of electors in my district then I would be taking the initiative with all those Members and offering them the opportunity to share an envelope and to minimise their costs or to minimise the profits to the Jersey Post Office.

### **3.5.6 Deputy A.J.H. Maclean:**

I think there might be an opportunity for Deputy Southern to forward an application form to his party to Deputy de Faye - he is looking quite enthusiastic, or was earlier on. **[Laughter]** I would like to encourage, if I could, the Chairman of P.P.C. to consider taking the rest of the regulations *en bloc* and seeking the support of the Assembly, if they might consider that. That is all I want to say, Sir.

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

I just want to clear up some confusion around some of the big statements being made about me and my party. First of all, I do not know if Deputy de Faye has been listening to my speeches, although he does not appear to have been at all because I fundamentally believe this is probably going to end up as anti party. It is going to make it a damn sight more difficult for those who wish to see party politics in the Island organised effectively along principled lines. Unlike Deputy de Faye, I am against it but for completely different reasons. When I come to start talking about how flawed this document is and these regulations are, I think Deputy Duhamel has just illustrated one of the simplest ways around things and this is the party that is a non-party. Now, we have already got one of those, I believe, it is called the Black and White Party in circles in which I move and it is headed by Senator Ozouf who has got a selection of friends, best mates, lifetime friends, that he quietly supports and encourages to get elected. I believe he writes them their speeches; he certainly prepares reasonable policies on their behalf and he is very active at election time even when it is not his election. Certainly in 2005 he was everywhere - he was everywhere - giving the good rah-rah to his selected candidates.

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

You are getting to Regulation 4, are you not?

### **Senator S. Syvret:**

Just some information the Deputy missed. He also carefully selects the appropriate districts for the best candidates.

**Deputy G.P. Southern:**

Indeed, he does, Sir, and a last minute substitution, I believe, resulted in the candidate in my own district actually succeeding with the support of Senator Ozouf. **[Laughter]** **[Approbation]** So this is one of the ways illustrated, unwittingly perhaps, by Deputy Duhamel which - again, another pretence, the pretence of non-parties is maintained while quietly beavering away behind the scenes - in the simplest way, 4 or 5 people get together to share envelopes. Bingo, bang, these limits go and effectively, de facto, you have a party which is a non-party. That is what happens. The simplest way round this sort of stuff; we have got 5 candidates gathered together to share - it is the Independent Party, the Party of Independence, exactly. Once again, on 4, even though it looks like a limitation, again, because of the reservations I have about the rest of the legislation not being able to be hanging together, not being able to at least be enforced, be effective, I will be voting against Article 4 even.

**3.5.8 Senator M.E. Vibert:**

Very briefly, Sir, I think the last speaker, Deputy Southern, J.D.A. and Deputy de Faye if they are both against it, it proves P.P.C. must have got it right.

**3.5.9 Senator W. Kinnard:**

Normally I respect the logic of Deputy Southern. I have worked with him and I think on many occasions, particularly on these issues, he speaks a lot of sense. I do not know what has happened to him today because quite clearly there is nothing to stop candidates of parties or non parties acting in the way he suggests anyway now without any cap whatsoever. So I suggest Members should support the regulations.

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

I call on the Chairman to reply on Regulation 4.

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

I must start by saying that celebrations or consolation parties after the election are not included. I think that will at least console one Deputy. We did look at the expenses, to answer the Deputy of St. John. We did look at the expenses that were allowed in Guernsey and they follow more or less that. What we were disappointed in is that we could not get a sensible price from Jersey Post to allow us to post election addresses. But I must say that this applies, I think, to all Members that have some objection or not, they did have plenty of time to amend these regulations and have not done so. There are 2 Members who are consistently against all the regulations and they speak each time. We know they are against, I think we are all convinced they are against, but do they have to speak each time? **[Approbation]**

**The Deputy of St. John:**

Another point of clarification, when the Chairman of P.P.C. asked for submissions from Members about their election expenses, did that include the 'in kind' services that were provided in their total figure because the suggestion was that it did and if it does then I am afraid the figures are completely flawed.

**The Connétable of St. Clement:**

I do not think we had details from the Members. All we had was the amount they had expended and that is what we asked them for.

**The Deputy of St. John:**

The amount that they spent rather than the amount they had had in kind, Sir? So it was the amount they spent? Purely that?

**Deputy I.J. Gorst:**

I cannot speak for other Members but I certainly included the articles and services that I had had in kind in my submission.

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

Very well, the appel is called for on Regulation 4. Members are in their seats. The Greffier will open the voting for or against Regulation 4.

<b>POUR: 30</b>		<b>CONTRE: 6</b>		<b>ABSTAIN: 1</b>
Senator S. Syvret		Connétable of Grouville		Senator P.F.C. Ozouf
Senator L. Norman		Deputy J.J. Huet (H)		
Senator W. Kinnard		Deputy G.P. Southern (H)		
Senator P.F. Routier		Deputy S.C. Ferguson (B)		
Senator M.E. Vibert		Deputy G.W.J. de Faye (H)		
Senator B.E. Shenton		Deputy of St. John		
Senator J.L. Perchard				
Connétable of St. Clement				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

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

Chairman, do you wish to propose Regulations 5 to 8?

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

Regulation 5: this is self-explanatory. Candidates will not be permitted to keep any anonymous donations as to allow them to do so would potentially open a significant loophole in the legislation. If there are no restrictions a single anonymous donor could give a series of anonymous donations to a candidate and the rules on declaring the identity of the donors would be circumvented. Any anonymous donations received must be forwarded to the Treasurer of the States who will make arrangements for it to be distributed to charities in Jersey. Regulations 6, 7 and 8: these 3 regulations refer to the process of making a public declaration of election expenses. This is done

after the election and must be submitted within 15 working days. It was considered an appropriate balance between the need to declare relatively quickly and the time it needed to get all invoices, et cetera, back from the suppliers. I must say that this operates very successfully in Guernsey on a voluntary basis and that is what we are attempting to do here - it is a voluntary basis. We find that certainly the Guernsey politicians, potential and elected, are honest and we hope that the equivalent in Jersey are equally honest. I propose these Regulations 5 to 8, Sir.

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

Are the Regulations 5 to 8 seconded? [**Seconded**] Does anyone wish to speak on Regulations 5 to 8? Deputy de Faye.

**3.6.1 Deputy G.W.J. de Faye:**

I was very sorry to hear the comment just made by the Chairman of the Privileges and Procedures Committee asking Members to refrain from speaking. I really think that as the guardian of Standing Orders that was most unbecoming of the Chairman and he, in fact, should be defending my and every other Member's right to speak on every subject that Members see fit. So I was very disappointed to hear that. In deference to the Chairman, who I do respect, I will keep my remarks to this particular section of the regulations very briefly. I simply do not think we should even bother with Regulation 5. It says: "A candidate shall not keep an anonymous donation and we advise that a donation is anonymous if the recipient is unable to ascertain the identity of the person making it." So, an envelope drops through my letterbox with a £50 note. I think if anyone here expects that -- we are asking here for the most extraordinary level of perspicacity and honour that someone is going to take a £50 and within 10 working days give it to the Treasurer of the States. Now, it may happen, it might not happen but I have to say - knowing human nature being what it is, a candidate may not be a States Member but just a candidate - I just cannot see this ever happening or ever being discovered, and why we have to try and legislate for it I really cannot imagine. This really does fall into my category of making legislation where legislation is not really required; overdoing the bureaucracy. I am sorry; I just think this is an extraordinary piece of regulation.

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

Interesting. I think at the next election I will have to test the candidates by putting anonymous donations through their letterboxes reporting the fact I have done so and see how many, in fact, report it as having arrived. [**Laughter**]

**Deputy G.P. Southern:**

I look forward to receiving it to have my morality tested and see if I pass the test.

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

It might not be a large one.

**3.6.3 Deputy G.P. Southern:**

I just want to point out some more absurdity. Really, it may be because after 4 days I am brain dead but I look at Article 6(d): "A donation might be anonymous and might be (1) a donation of services." I do not understand how I might get services donated anonymously that I then have to declare in receipt of services. I surely know who is servicing me, as it were, who is doing the servicing and it is not likely to be anonymous. But, nonetheless, if somebody can tell me what anonymous services I might be in receipt of in an attempt to get elected, I will be glad to hear what can be done for me, to me or on me anonymously.

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

Just to clarify for Members, Deputy, which Regulation were you referring to - anonymous services?

**Deputy G.P. Southern:**

6(b)(i)(d).

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

I suspect for Deputy Southern he would have to declare if somebody was using their skills. Perhaps if his leaflets were distributed by a postman and he did not know he was a postman, he would be in error.

**Deputy G.P. Southern:**

My 2 postie Members will be obviously aware.

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

I call on the Chairman to reply.

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

When I looked at 6(b) I think what the Deputy is referring is to is 6(1)(b)(ii) which says: “The sum of the anonymous donations received should be sent to the Treasurer of the States.” It does not mention anywhere else, as far as I can see, that the anonymous services are mentioned because in 6(b) it says: “The donations that the candidates have received specifying, in relation to each donation, the name of the donor.” I mean, it is quite clear. It does not mention anonymous donors at all.

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

I put the Regulations 5 to 8. The vote is for or against Regulations 5 to 8. The Greffier will open the voting. All Members who wish to do so cast their votes.

<b>POUR: 32</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Deputy G.P. Southern (H)		
Senator L. Norman		Deputy G.W.J. de Faye (H)		
Senator W. Kinnard		Deputy S. Pitman (H)		
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator J.L. Perchard				
Connétable of St. Clement				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				

Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

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

Chairman, do you wish to propose Part 3 *en bloc*, which is Regulations 9 to 13 in relation to third party expenditure?

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

Regulation 9: the draft is a proposal to regulate candidates’ own expenditure. It is relatively straightforward. The formulation of proposals to regulate third party expenditure was significantly more difficult. Third party expenditure can be defined in the simplest of terms as any expenditure to promote one or more candidates or to the prejudice of the election prospects of a candidate. It is any expenditure occurred without the candidate’s knowledge. It is that knowledge, or the absence of it, which defines whether the expenditure is the candidate’s own or third party. Regulation 10: this gives the limits applicable to third party expenditure. This would be limited to one half the maximum allowed to a candidate in the senatorial election; that any third party would not have been permitted to spend more than £3,970 in the senatorial election and the third party campaigning in St. Mary alone would not have been permitted to spend more than £806. Regulations 11, 12 and 13: these 3 regulations mirror the provision for candidates described above in relation to the prohibition on anonymous donations, on the making of declaration of expenses after the election and on the verification of expenditure. Third parties that spend less than £500 are not required to make a donation because it is felt that that would not significantly affect an election. I propose these regulations.

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

Are Regulations 9 to 13 seconded? [**Seconded**] Does any Member wish to speak on any of the Regulations? Deputy Southern.

**3.7.1 Deputy G.P. Southern:**

I will be brief. The wheels at this stage have completely fallen off. A third party about whom I know nothing is allowed to stand and say: “I did not know anybody was doing that on my behalf” is allowed to spend up to half of what I can spend on my election campaign. Up to almost £4,000 were I a senatorial candidate. Well, that is really going to stop people loading money into campaigns, is it not? If they receive an anonymous donation, these unknown people who have done things on my behalf or anybody else’s behalf -- Deputy de Faye’s behalf, even though he does not have anonymous donors or friends or anything. As long as it is under - how much was it? I do not know - £500 they do not have to declare it anyway. Anonymous donations in brown envelopes arriving on unknown persons on the mat and opened: “Oh, dear, this looks awfully like an election donation I should be declaring. I had better run off down to the Greffe.” I pointed this out in the principles. Come on, what are we designing here? Please, for the love of God can we at least throw this rubbish out? It is absolute junk, to use a technical term. I talk to the law officers permanently on the level of junk that this is. I mean, come on, at least hold up our hands and say in passing this under the pretence that it can be made to work, let us just stand up and say we know this is absolute hypocrisy and cannot. This is not going to limit anybody’s election expenses because this third party stuff is just that wide, just drive through it and spend as much as you like. We can pretend we have a level playing field, we will not have one but we will be able to say: “Look, we have some regulations, we are clean.” What a load of nonsense.

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

I think the Deputy may have overlooked Article 9(1)(b)(ii). There may be third parties not acting in his best interests which this would be caught by.

### **3.7.3 Deputy G.W.J. de Faye:**

I do stand partly to indicate I am about to run up the flag of surrender because I do know that Members have all been invited to a reception at 5.30 p.m. by the Constable of St. Helier and I am sure that they -- oh, I am sorry, some have not **[Laughter]** so ...

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

This is obviously the friend he has missed all these years.

### **Deputy G.W.J. de Faye:**

There we are, Sir, it is all about friends. I just have to say that while I welcome every other Member in this Assembly to be utterly entitled to their point of view and to vote as they see fit, I just cannot handle passing a regulation that says a third party shall not keep an anonymous donation. What on earth could a candidate do about that, know about that? Under what circumstances is a candidate going to be separated from this and is it technically possible that because a third party has kept an anonymous donation a candidate might find themselves in trouble and if so: "Oh, it is the third party." How are we going to track all this, I would just love to know because we are just creating legislation here that cannot possibly be policed, and I just do not think that that is right. Sorry, Members, but I just do not.

### **3.7.4 Deputy C.J. Scott Warren:**

Sir, is it possible on that point to have an opinion on whether this is -- either some assurance from the Chairman when he sums up that he believes this really can be policed or from the Attorney General. Are we passing legislation that is not any way near enforceable?

### **3.7.5 Senator S. Syvret:**

I do hope this is not going to take a great deal longer. I have important work I need to be pressing on with, like working on the overthrow of the State. **[Laughter]** It would seem to me quite clearly that if a third party kept an anonymous donation and then used it on behalf of the candidate it would be immensely difficult to secure a conviction on that if there was no *mens rea* (guilty mind), if the candidate was not aware of the fact that the third party had taken the donation. It seems quite straightforward to me.

### **3.7.6 Deputy J.B. Fox:**

In simple terms, if you have something that will prevent something from happening or deters somebody from doing something that they know is **[Interruption]** -- it is obviously the holiday time coming up. **[Laughter]** Seriously though, just for one minute, like all laws of the land they are there not to implement unless it is absolutely necessary. But if you do not have a law, as the Attorney General will tell you, sometimes it makes it more difficult. If you have something that makes it a bit easier, if something does come up, then it is worth it.

### **3.7.7 Senator P.F.C. Ozouf:**

Sir, I have not spoken on some of the other Articles but my name has been mentioned in relation to this Article. I have to say this is like groundhog day. When I was back from Jersey in 1999 I listened to the States before the election in July, and I heard this Assembly making a fool of itself. I heard the Assembly debating issues which they then, in subsequent years, as the pages of Temps Passé will report, found to be ridiculous in terms of policy. The States is making a fool of themselves in this regard. The States do not know what they are doing, members are down to dwindling numbers, we are laughing, we are joking, this is the Parliament of a small nation State and we are making fools of our democracy and our legislation. This is unclear in my view and I will be voting against it.

**The Attorney General:**

Sir, in relation to third parties, I wondered if it would be helpful to share with the Assembly the case of *Bowman* in the United Kingdom which went to the European Court of Human Rights in 1998. The background to the case was a restriction under the Representation of the People Act 1983 which prevented a sum of money in excess of £5 being spent by third parties. The facts in that case were these: Mrs. Bowman was the executive director of the Society for the Protection of the Unborn Child. She arranged to have 1.5 million leaflets distributed in constituencies throughout the United Kingdom prior to the 1992 general election giving information about the candidates' views on abortion and embryo experimentation. When she was charged and convicted under that section she took the case to the European Court of Human Rights which found that the statutory restriction was in breach of her rights to freedom of expression. It is that sort of case which these regulations are designed to tackle.

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

I call on the Chairman to reply.

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

First of all I would like to dispute what Senator Ozouf said. This is not Mickey Mouse legislation, this is trying new regulations to see what form the permanent legislation should take. He definitely must be opposed to having any regulation at all and this is quite evident in what he has said. To answer Deputy Southern, the third party is not an open-ended amount of money. If he looks at 10(2): "Where a third party campaigns in more than one ordinary election held in a year the sum of the third party's election expenses for all of these ordinary elections shall not exceed one half of the maximum that would be allowed to a candidate for elections of Senator in the ordinary election." That is spread out all over the elections in that year. If there were by-elections as well it would have to come out of that total sum. So it is not an open cheque. I think I have answered all the other -- I move the articles.

**Deputy C.J. Scott Warren:**

I was unclear on the last sentence from the Attorney General in his explanation because it sounded as though the Human Rights Court overrules regulations such as this. I wonder if I could have further clarification please.

**The Attorney General:**

Yes, indeed, they overruled what was thought to be a disproportionate interference. The United Kingdom subsequently introduced legislation with a cap of, I think, £500. It was about the same sort of cap that is being proposed here.

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

For clarity, Mr. Attorney, you are saying these regulations in your view are proportionate in relation to the *Bowman* case?

**The Attorney General:**

In my view, yes.

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

The appel has been called for on Regulations 9 to 13. The Greffier will open the voting.

<b>POUR: 31</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Connétable of Grouville		
Senator L. Norman		Connétable of St. Brelade		
Senator W. Kinnard		Deputy G.P. Southern (H)		
Senator P.F. Routier		Deputy G.W.J. de Faye (H)		



Senator M.E. Vibert				
Senator B.E. Shenton				
Senator J.L. Perchard				
Connétable of St. Clement				
Connétable of Trinity				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

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

Chairman, do you propose Regulations 14 and 15?

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

Regulation 14: there was concern in 2005 that a very misleading advert about Members who had supported free parking for States Members was published on the eve of the Deputies selection. This regulation therefore makes it illegal for advertisements relating to an election to be published on the 2 days preceding an election and on the polling day itself. If an election is currently held on Wednesday this would mean that in practice no election advertising would be published in the local newspaper after the Saturday edition. Genuine concerns have been expressed to me, have been raised with me over some aspects of this regulation and, in that respect, I would like to assure Deputies that the P.P.C.'s intention is to look at the concerns and bring forward an amendment in order it is debated at the sitting commencing on 8th September. Regulation 15: these regulations contain a range of offences that are set out in the relevant sections, they cover all aspects of breaches of the provisions. I move Regulation 14 and 15.

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

Is the Regulation seconded? [**Seconded**] Senator Ozouf?

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

The Chairman's remarks in relation to these Articles I think highlight the point. That is that there are flaws in these Regulations that he is bringing. He has just seemingly admitted to the Assembly that there is a flaw. He explained that the reason why the understandable, and no doubt well-intentioned, proposal to ban advertising 2 days before was motivated by an advertisement that appeared in the J.E.P. the day before the election. What difference is it going to make that you do not have an advert 2 days before? The skill of a person wanting to disrupt an election is to simply

put it at the last available opportunity; simply, the advertisement will appear 2 days earlier. That, I think, highlights the point that there needs to be proper scrutiny, thought and proper debate on these issues rather than rushing them in this unseemly way.

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

I would just like to point out to Senator Ozouf that this proposition was lodged 'au Greffe' on 30th May and that if he had serious concerns he should have lodged an amendment rather than raise them at 5.20 p.m. on a Friday evening.

### **3.8.3 Deputy G.W.J. de Faye:**

That may be very obvious to Senator Shenton but, frankly, I would say to the Senator that if you just about disagree with everything here I am afraid you cannot amend it back to wellness. As Minister of Health you might appreciate that. I said I was rolling out the flag but I will fire one last salvo before the ship goes down, that is to underline my general incredulity with almost every regulation contained within these triennial regulations. Here we have from the Privileges and Procedures Committee, who I understand have dedicated themselves to try and encourage people in this Island to become enthused with the election, to want to take part in the election process, who they feel should be encouraged to go to the polls, that here we see on the 2 days preceding the poll we cut out advertising. I would suggest to Members those are probably the 2 days where people would most appreciate the advertising because that is when they are coming around to think of polling day and that is when they are beginning to crystallise their minds about how they may or may not want to vote. But no: "No person shall on the day of the poll or the 2 days preceding that date publish any advertisement containing material" et cetera, et cetera. I just say, Sir, I am flabbergasted that P.P.C. on the one hand want to encourage people to the polls and on the 2 days before polling day they want to ban all advertising to do with the election. I am absolutely staggered.

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

I think Deputy de Faye really should get out more because this is what they do in the United Kingdom.

### **3.8.5 Senator L. Norman:**

It may be what they do in the United Kingdom but they also deliver letters from candidates free of charge in the United Kingdom. It does not necessarily mean that they are always correct. Deputy de Faye is absolutely right. Just as the information and the excitement about an election should be coming to a crescendo this article, Article 14, we are stopping dead in its tracks and people will start to lose interest. I think it was rather unfair for Senator Shenton to suggest that Senator Ozouf should have brought an amendment. To be honest with you Article 14 says no advertising 2 days before, it is effectively 4 days because we have our election on a Wednesday and there is no newspaper published in Jersey on the Sunday, so it is technically Saturday would be the last time. If we do not like this Article 14 then all we have to do is vote against it. It does not affect the rest of the regulations. If we want to stop advertising, if we want to stop talking to the electorate 4 days before the election we vote for Article 14. If we want to keep communicating and encourage people to get to the polls we will vote against Article 14.

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

The opening remarks of the proposer mentioned that they were considering bringing forward an amendment to this at a later stage for debate when we return after the break. I did not catch what the intention of that amendment would be. That might help me to decide about how to vote on this. In his summing up I would like to know what the idea of the amendment would be.

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

I might help. It was unfortunately only yesterday when I was reviewing this Article that I picked up the point that had been already raised by Deputy de Faye and Senator Norman regarding the issue of advertising. Subsequently I did seek some advice from the Attorney General regarding a number of what I would call practical considerations when you are running an election campaign. Unintentionally Article 14(1) seems to stop one being able to replace or put up posters 2 days prior to the election and on polling day itself, advertise where your candidate's headquarters are, put up banners stating: "Vote James Reed for Deputy today" or "Election day is arriving: vote James" or words to that effect. Equally as I endeavoured to do nearly 6 years ago now, drive around in a van covered in posters playing music and announcing not only that it was election day, but equally that people should come out and vote for me. I drew the attention to this to the Privileges and Procedures Committee Chairman who assured me that this issue could be amended. The one thing that I would like to pick up on, that Senator Norman made mention of, is whether or not it would be better and tidier if we voted against this article and the article was brought back the first sitting of the next session. I will wait for the Chairman to maybe in his summing up deal with that matter.

### **3.8.8 Senator S. Syvret:**

Briefly to deal with the point Senator Norman made. The rag is not the only media that carries advertising in Jersey, there is the broadcast media as well, so it is entirely possible to place ads up to 2 days before the poll. I really must draw Members' attention to the fact that this kind of restriction is commonplace in most western European democracies. Frankly, if P.P.C. were to bring back an amendment to kind of alter this and weaken it, I would certainly oppose that amendment. The reason why most respectable western democracies have this kind of measure is so that after all the hullabaloo and drama and advertising and spending and so forth of an actual election campaign there is then a time for calm, sober reflection on what has taken place before the voters go to the polls. That is commonplace in most western democracies. Frankly it would be absurd if we voted against this.

### **Deputy G.W.J. de Faye:**

Point of order, Sir; I do hope the Senator did not intend to mislead the Assembly but he did say that you could have radio advertising. It does seem to be quite clear under 14(2)(b) it says: "Where publications by way of broadcast or transmission by cable." So I do not think that the --

### **Senator S. Syvret:**

It is obviously getting late in the day, Sir, the Deputy did not understand what I said. I was, in fact, making that very point, that broadcast media could be used to run adverts up to the period 2 days before the election. That is what I said.

### **3.8.9 Deputy C.J. Scott Warren:**

While we have just heard from Senator Syvret the reasons that in other jurisdictions no advertising is allowed on the 2 days - and here obviously because our elections are Wednesdays it will be 4 days before an election - but 2 days in other jurisdictions to give a calm reflective period for the constituents to decide on who they wish to support. I also understand from the Chairman of Privileges and Procedures that were any derogatory, misinformation to be published about a candidate the 2-day period could give a time for a correction, not obviously as an advert, but to go into the media. So, although I see in Jersey there would be a wide gap from before the weekend I think there may be merit in supporting this Article. I would like to know what amendment the Chairman wishes to bring forward in September.

### **Senator L. Norman:**

I wonder if I could seek clarity, I am not sure it would be from the Attorney General or someone else equally knowledgeable. It is my understanding and my belief that election candidates are not allowed to take advertising space on television or on commercial radio. That has always been my understanding. I wonder if that is correct?

**Deputy G.W.J. de Faye:**

Can I just clarify following that point with the Attorney General? Would this mean that any candidate who is operating a website would have to close it down 2 days before polling day, because it would be something that is being transmitted by cable?

**The Attorney General:**

This prohibition affects people who are publishing things. If it has been on the website up to the 2 days before it is not being published in the 2 days. It is already published. I think you do not have to close down the website but you would not be able to put anything new on it.

**Deputy G.P. Southern:**

You would not be able to put anything new on your website in the last 2 days?

**The Attorney General:**

Can I just think about that a little bit more; I think probably not but let me just have a look.

**Deputy J.A.N. Le Fondré:**

Can I ask the Attorney General a further point while he is consider matters? Under the definition generally of publishing, and it seems to cover informational material, does that preclude, for example, delivery of leaflets in the 2 days after the weekend, Sir?

**3.8.10 Deputy J.A. Martin:**

Basically when you say advertising, we have made big play on we cannot post anything out, well, some people have leaflets, some people just have flyers, I mean you are advertising and you are promoting or procuring election of a candidate. Does it also include rosettes on the door? I think this does cover that. I have supported the whole lot all the way through and I can get why the (b) part, prejudice 2 days before, but if it means that you cannot -- it is an advertisement, a leaflet, but even if I pay for it which is with the overtime ... I am very concerned now about this. I fully support the rest but I might find myself voting against this one.

**3.8.11 Deputy A.J.H. Maclean:**

I share Deputy Martin's views and concerns about this. I have concerns about a number of the other regulations although I voted in favour of all of them because I believe in the principle. However, there are some serious flaws with regard to this one. I would like to just ... while the Attorney General is giving consideration to the earlier point about websites, the extension of that, of course, is blogs. There are some Members in the Assembly who have blogs which are well-publicised. Clearly the blog itself receives articles that are put onto it by third parties and clearly that could happen within the last day or 2 of an election. Perhaps the Attorney General can consider that together with the website issue?

**3.8.12 Deputy G.P. Southern:**

I think we are hearing the sound of the wheels finally falling off.

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

Mr. Attorney, are you able to offer the Assembly some advice?

**The Attorney General:**

Anyone who maintains a blog site and leaves themselves open to criticism, of course, takes that risk. That is true generally. As far as the website is concerned the position seems to me to be this, the way in which the regulation is drafted at the moment is in quite wide terms, no doubt for the reason which Senator Syvret has given, and as long as the website contains an advertisement which might achieve any of the objects in (a) or (b) then if you add to it in the 2 days before the election it seems to me that you are publishing something because you are making it public. Therefore that

conduct would fall within 14(1). What is on the website before that 2 day period has already been published and so you have not done that in the material period.

**Deputy J.A.N. Le Fondré:**

May I seek the clarification on the point I raised, Sir? Which was does it capture delivery of leaflets after the weekend, effectively?

**The Attorney General:**

Yes.

**Senator P.F. Routier:**

I am not sure that I have already spoken on this. What I was going to just ask is would the whole triennial regulations stand if we just voted against 14, would everything else stand?

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

Yes, Members are free at all times to vote against -- as long as it does not depend on any others which I do not think this regulation does, so it would be open to Members if they wished to do that.

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

Could I just seek further clarification from the Attorney General with regard to leaflets? Is the Attorney General saying that one would be barred from distributing leaflets in the last 2 days, even though you have been distributing those same leaflets for the last week? **[Interruption]** I did not realise there were so many Attorneys General in the House. **[Laughter]** **[Approval]** It does seem to me that it has already been published.

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

I think the Attorney General has given clear advice on that point. Chairman, do you wish to reply?

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

I wish first of all to ask permission of the Assembly to withdraw Article 14. **[Approval]**

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

Are Members content for the Committee to withdraw regulation 14. The appel is called for. The proposition is pour against the request of the Chairman to withdraw Regulation 14.

<b>POUR: 34</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 0</b>
Senator L. Norman		Senator S. Syvret		
Senator W. Kinnard		Deputy G.C.L. Baudains (C)		
Senator P.F. Routier				
Senator M.E. Vibert				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator J.L. Perchard				
Connétable of St. Clement				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				

Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

**The Connétable of St. Clement:**

Can I just say it is P.P.C.'s intention to revisit this Article.

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

Article 15, those Members in favour of adopting it kindly show? Any against? Article 15 is adopted. Do you propose Article 16 and 17 of the Schedule, Chairman?

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

Yes, Sir.

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

Are they seconded? **[Seconded]**

**Deputy J. Gallichan:**

May I say - reserving my right to speak - just make a brief statement at this time? I think it is a great time to just clarify something I said earlier during the debate on Article 13. I think that in my rush to clear up one misunderstanding concerning the voluntary service aspect I feel that I may have spoken without absolute clarity, and for that I apologise and I hope there has been no misunderstanding. Members will see in the schedule, section 6, this is the part I am talking about, the example I was talking about earlier related to the vision of printing leaflets or posters or something if done by a volunteer. I would just like it clear the distinction between the goods which are provided which are liable to be given a notional value and declared, the actual services not involving goods I believe are allowed under the schedule.

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

May I just say from the Chair that I ... perhaps it is the time of day, I inadvertently overlooked to call the amendment but there is no procedural reason why we cannot do it after these Articles.

**3.9.1 Deputy G.P. Southern:**

I am still not clear about the place of volunteers, in my particular case, in the party who wish to offer their services to the campaign and whether those are declarable expense or not. I am still not clear about what is and what is not permitted for party members to do on behalf of the party and on behalf of candidates.

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

I wish to address some remarks in relation to Article 17, the citation commencement and duration. I have no doubt these Regulations will be passed, they will come into force after 7 days and they

will have a sunset clause within 3 years. I have no doubt that this Assembly intended to make proper regulations in relation to the need to have the regulation of expenses, the need for transparency and level playing fields. We will have an election - if we agree the final Article 17 - which will control things. A comparison of Guernsey has been made. The reason why I am concerned about these Regulations and the effect that they will have for the next 3 years, and particularly the election, is that they will mute an otherwise un-muted election to a great extent. Comparison has been made with Guernsey, they have expenses limits, they have had them for some time. Other Members who follow elections in Guernsey will, I am sure, have noticed that there was unfortunately, in my opinion, an absence of national debate about the issues facing Guernsey. I think to a great extent it was a contributory factor to that. That perhaps was an unintended consequence. I would ask P.P.C. in the period of time that they now have between now and the election -- we all want elections to be free of the impugned reputation of some people in relation to the power of money and influence. P.P.C. have a grave responsibility now in the next few months in order to consider how they are going to ensure that our election in Jersey, in the senatorial and the deputation and the Constables election is a real election; is a fair election; is an election on policies. It is not too late to consider polling cards, it is not too late to revisit the issue of posting of manifestos in a fair way to all candidates across the Island. I have been involved in elections probably since I was 16 or 17, elections that money was spent, effort that was made, winners and losers. I do think that the intention of these regulations was required. But at the same time we need to ensure that Jersey has proper elections with good debates on real issues. I fear that inadvertently some of these issues will mean that that will not happen. I also would ask P.P.C., with the Attorney General, there were clearly a number of issues which are not clear. There are serious issues which are not clear. I think the P.P.C. has a heavy duty of responsibility to provide Members and prospective candidates with advice about how these issues are going to be interpreted. My final comment is I do think that the effect of these regulations will be is that Members who are known to the general public, Members who are sitting in this Assembly today and those that are not, will have an advantage over those that are not. I think that is a great shame.

### **3.9.3 Senator S. Syvret:**

Briefly just to mention a couple of the issues raised by Senator Ozouf. He said there was an absence of a debate, a community-wide debate about issues affecting the whole Island in Guernsey. Yes, that is because they have super-constituencies and no Island-wide mandate. There is, of course, a means of addressing that problem which would be to form political parties, then it would have a meaningful political mandate. Really, Senator Ozouf's remarks again were not addressed to the specific regulations that are before us now, it was another generalised attack on the principle of this kind of legislation in general, though he claims otherwise. It is clear from the monies he has spent on election campaigns in the past that he would prefer greatly to be able to carry on doing that. Senator Ozouf is basically opposed to this kind of restriction because it produces a level playing field.

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

I call on the chairman to reply.

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

Dynamic policies and a really interesting election is up to the candidates to bring forward those policies and not up to P.P.C. to do that for them. That is the only way you will get the public debating major issues, is for candidates to bring those major issues forward. One of the reasons I think that the States are suspended 3 weeks before the election is to make certain that they do not have the advantage of being in the newspapers or on the radio in that time so that it produces a somewhat level playing field. I move the Regulations.

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

Regulation 16 and 17 in the Schedule. Those Members in favour of adopting kindly show? Any against? The Regulations are adopted. We now need to address the amendment of Deputy Le Hérissier which inserts a new Regulation. I will ask the Greffier to read the amendment.

**The Assistant Greffier of the States:**

Page 22 new Article. After Article 16 insert the following Article and renumber the remaining Article accordingly: “17. Arrangements for publication and distribution of election material: (1) the Privileges and Procedures Committee shall make arrangements for election material provided to it by a candidate to be published in or distributed with an English language newspaper circulated in Jersey; (2) the election material shall include information summarising the candidate’s background and manifesto, whether or not it contains other information; (3) such arrangements shall be available to each candidate in an election on equal terms.”

**3.10 Deputy R.G. Le Hérissier:**

These things were done in parallel. There is a suggestion that I jumped in having heard, but in fact it was fairly late in the day that I did hear. I do not want to go into great detail, a lot of this was covered [**Approbation**] by default in the debate on to post or not to post. Just a few points, this was meant to be the alternative to posting. I think it is a viable alternative. It was used some time ago by the old House committee. There is some debate about the size of the adverts which can be worked out later which then tips over into the cost of the adverts. It was never any intention that the English language newspaper, to use the euphemism, would be the exclusive means of distribution. This insert would be placed in as many places as possible and to reach out not only to English language speakers - in fact there may at some point well be a need for translation, probably will be a need for translation. Those are the main points I wish to make. I think it is a proven method of some years ago, it has to be said, it gets over the postal issue and I hereby propose it.

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

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

**3.10.1 Deputy G.P. Southern:**

The first sensible thing I have heard this afternoon.

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

I was going to ask what the cost was, but I gather it is £20,000?

**3.10.3 Deputy C.J. Scott Warren:**

I will support this, but I would point out that for Deputies and Connétables it is basically a waste of money because all the Island does not need to know what they think, because all the Island will not be voting for them. But on the other hand because of the situation I think we must ... personally I would urge Members nonetheless to support it because at least it is going to get to the constituents, it will just be, in a lot of places, get to too wide an area of non-constituents.

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

I do support this amendment. I do however recall the remarks of Deputy de Faye yesterday who stated, that of course in a limited opportunity for a certain text candidates will simply be proposing for sunny days, spending money, saving money and all the other things, motherhood and apple pie politics that we are trying to avoid. It is a step in the right direction. I would ask Deputy Le Hérissier if he would please confirm the arrangements of how many words are going to be allowed in this arrangement. If he cannot and he has accepted it then that just shows that there has not been thought, but if they have then I am ready to listen. Also what the timing of the inserts are going to be? Whether or not there is going to be any editorial arrangements made by anybody? Is it just simply going to be an arrangement that there is going to be 1,000 words; is there going to be a



specific issue of allocation of headlines? Is it just going to be text? It has to work. Could he explain how this is going to work?

**3.10.5 Senator L. Norman:**

It is unclear from this amendment whether the advertisement, or whatever you want to call it, whether it would be compulsory or voluntary on behalf of the candidates. There is also silence there on how much this is going to cost the candidates? Whether the cost of this will come out of the election expenses that we have just agreed? I really hope that this is not going to be a charge on the taxpayer, because it is totally, totally inappropriate. It is totally inappropriate. I cannot think it happens in many other places where the taxpayer is asked to fund the election advertising, promotion of candidates in the election. That is totally inappropriate particularly as we have fixed an amount which they can spend on advertising themselves.

**Senator M.E. Vibert:**

Point of information for Senator Norman, Sir, the U.K. Government subsidise the Post Office in the U.K. by £150 million to deliver leaflets for an election.

**3.10.6 Senator S. Syvret:**

Just briefly, I think we have just heard a speech from Senator Norman which illustrates how little he knows about the subject and how little he understands the functioning of modern democracies. An element of State funding for election campaigns is, in fact, commonplace in established western democracies. Again what we are doing here is simply catching up with established democratic practice in other jurisdictions.

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

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

**3.10.7 Deputy R.G. Le Hérissier:**

In regard to the questions, yes, it will be distributed throughout the Island at both, as I understand it, Deputy and senatorial elections. As regards Senator Ozouf's questions, no, I cannot I am afraid at the moment give him the technical details. I am surprised he would want in legislation to go to that kind of micro-management. We are a group of 53 people deciding on major legislative changes, not deciding whether there should be one or 2 postcards, surely that is a major misuse of this Assembly's time. **[Interruption]** I thank him for those kind words. As regards Senator Norman's point - Senator Ozouf is right, we are perhaps losing it - it will be voluntary participation. There will be no cost simply because the quid pro quo is that we have put in tight controls and this is our way of getting the message across on an equal playing field in the absence of a postal system. I hereby propose the appel.

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

The appel is called for on the amendment. The Greffier will open the voting.

<b>POUR: 35</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Connétable of Grouville		
Senator L. Norman				
Senator W. Kinnard				
Senator P.F. Routier				
Senator M.E. Vibert				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator J.L. Perchard				
Connétable of St. Clement				
Connétable of Trinity				
Connétable of St. Brelade				

Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

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

Chairman, you propose the Regulations in Third Reading?

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

Yes, Sir.

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

Is that seconded? [**Seconded**] Does anyone wish to speak on the Regulations in the Third Reading?

**3.11.1 Senator J.L. Perchard:**

While these Regulations further add to the nullification of elections, sterilising them to the point where electors could be excused if our elections pass them by, I am delighted that expenses can only be incurred before the poll and that P.P.C. have no designs to wreck the celebrations of a successful candidate and his or her supporters. The P.P.C. does not stand for Party Poopers Committee and I thank them for that.

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

The Chairman did not respond to some of the questions that I put in the earlier comments about the work that P.P.C. need to do in relation to guidance, in relation to whether or not there are other issues to do. Could he please address those in his concluding remarks?

**3.11.3 Deputy G.W.J. de Faye:**

I have received over time gifts of money, some I know came from great aunties, some came with Christmas cards, but there were some anonymous donations. It is quite clear here in the schedule, it says: "A gift of money is a donation if it is made any time before the poll." I really do not want to have to go and retrieve all the money from the piggybank I have collected over the years, and I would like to ask P.P.C. to address this matter. I think the use of a phrase "at any time before the poll" is in fact just, if I can put it this way, a tad far-reaching. Some sort of sensible time limit

before nominations open I think would have been a far more practical approach to this. What that time limit is, I do not know. I think that is something that is worthy of consideration by P.P.C. but I really think that this broad reaching, at any time; it is just far too wide in its scope.

**3.11.4 Deputy G.P. Southern:**

I just wanted to say that I do not believe the P.P.C. have done work to the standard that we should expect from them. I think this is a shoddy piece of work put together in a hurry and I think we will rue it.

**3.11.5 Deputy C.J. Scott Warren:**

I would just like to say that obviously this does feel as though it has been rushed and while we are going to have the [Interruption] [Laughter] - well, not rushed in the sense of the week long sitting here, I will agree with you. I would like to say that before this is thought of in the next 3 years of becoming a law, which I hope it certainly will be for the election after this, that there will be consideration given to an ultimate sanction of successful overspending candidates who disobey the amounts in that law of a rescindment of going into office.

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

I call on the Chairman to reply.

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

I would like to thank everybody who has taken part in the debate anyway and we have, I think, learnt some lessons about it; and I hope that they will reflect in the next P.P.C.'s deliberations on how this is worked out to put this into a more permanent legislation form. As far as guidance of candidates is concerned; I did say earlier in reply to, I think, Deputy Hilton that we would be providing some sort of guide to the candidates. I think that answers Senator Ozouf's question. We would also look at Deputy de Faye who asked us to look at the "any time before the poll." They are worthwhile and these are the items that the next P.P.C. must address. I do not think we are going to address them all before the elections, but they certainly must be addressed before they are put into permanent form. They must definitely be put into permanent form.

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

I will put the Regulations into Third Reading. Those Members in favour of adopting kindly show. The against? The Regulations are adopted in Third Reading. That concludes the public business of the Assembly. [Approbation]

**Deputy A. Breckon:**

I wonder if I may make a point. When we were deciding how to dispense with business this week we did have a proposal to sit until 6.30 p.m. and I think it has worked but I would ask Members to note that the proposal came from the Deputy of St. John and he left about an hour ago, so it was for us perhaps not for him. [Members: Oh!]

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

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

Which leaves the arrangement of public business of future meetings, Mr. Chairman?

**4. The Connétable of St. Clement (Chairman, Privileges and Procedures Committee):**

I would like to propose the Public Business that is on the pink sheet, the Consolidated Order Paper under M with the addition on 8th September - and I must point out to Members that we are meeting on Monday 8th September - the addition on that day or the subsequent days of P.114 Planning and Environment Division into 2 ministries. That is included under Monday, 8th September's Public Business. I move the proposition.

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

Does any Member wish to raise any matter under the arrangement of future business?

**Male Speaker:**

Just one issue. We have been sitting until 6.30 p.m., would it be the wish that we will sit until 6.30 p.m. in future for the next week on 8th September or will we look at it when we get there? Just maybe think about it.

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

Very well. If there are no further matters for the Assembly that concludes the business of the first session in 2008. The Assembly will reconvene on 8th September.

**ADJOURNMENT**