

**REPORT OF PROCEEDINGS OF
LEGISLATIVE COUNCIL**

**Douglas, Tuesday, 18th April 2000
at 10.30 a.m.**

Present:

The Acting President (Mr E G Lowey) the Lord Bishop (the Rt Rev Noël Debroy Jones), the Attorney-General (Mr W J H Corlett QC), Hon C M Christian, Messrs E A Crowe, D F K Delaney J R Kniveton, Dr E J Mann, Messrs J N Radcliffe and G H Waft, with Mr T A Bawden, Clerk of the Council.

The Lord Bishop took the prayers.

Election of Acting President

The Clerk: Hon. members, in the absence of a President, Council will now elect an Acting President to take the chair in accordance with standing order 11. I invite nominations.

Mr Radcliffe: I propose Mr Eddie Lowey.

Mr Delaney: I second that.

The Clerk: Are there any other nominations? In the absence of any other nominations I therefore declare Mr Lowey elected and invite him to take the chair.

Mr Lowey took the chair.

European Communities (Amendment) Bill – Third Reading Approved

The Acting President: Thank you, hon. members. It is rather a strange feeling sitting here on a Tuesday morning! However, to our agenda, and the first Bill for discussion this morning is the European Communities (Amendment) Bill for the third reading, and I call on Her Majesty's Attorney-General. Mr Attorney.

The Attorney-General: Thank you, Mr Acting President. As I have explained in the course of the earlier readings of this short Bill, its purpose is two-fold: firstly, the Council of Ministers is empowered to make orders under section 2A of the European Communities (Isle of Man) Act 1973 applying community instruments as part of the law of the Island; and secondly, a new Tynwald procedure is introduced in relation to sanctions measures. An order made by the Council of Ministers must be laid before Tynwald as soon as practicable after it is made and must then be approved either at the sitting at which it is laid or the next following sitting.

Mr Acting President, I believe that hon. members are broadly content with the Bill and I therefore beg to move that this Bill be now read a third time and do pass.

The Acting President: Thank you. Have we a seconder?

Mr Delaney: I beg to second.

Mr Lowey: Does any hon. member wish to speak to the the third reading of this Bill? No? Then I will put the Bill to a vote. Will all those in favour please say aye; any to the contrary? The ayes have it. The ayes have it. Bill read a third time and passed.

Retirement Benefits Schemes Bill – Third Reading Approved

The Acting President: The second item on our agenda is the Retirement Benefits Schemes Bill for the third reading and I call upon the hon. member Mr Radcliffe to move.

Mr Radcliffe: Thank you, Mr Acting President. The Retirement Benefits Schemes Bill is designed to facilitate the promotion of pension provisions based on the Isle of Man, not only local pensions, but international pensions. It provides the framework for an effective, proactive

but uniquely Manx basis to promote pension provisions and also provides protection for members of Manx schemes.

There has been a great amount of consultation with all the interested parties. This commenced in September 1997, which is the date when the proposals for this Bill were first presented. Among the parties consulted by the Insurance and Pensions Authority were the income tax division of the Treasury, the Department of Health and Social Security, various external consultants were consulted and they were covering the legal, financial and actuarial requirements which are in this Bill, and of course there was consultation with those who will be involved in the marketing of benefits schemes. The Bill is the culmination of all the effort by all these various bodies and it has the approval of those who will be the product providers.

Mr Acting President, certain queries were raised at clauses stage and one in particular by yourself, sir. It related to clause 42, where you were asking for naming and shaming. Could I say, sir, that it is likely that the imposition of a mandatory publication policy on the authority - this is to name and shame as you stated, sir - could give rise to confidentiality and human rights actions which would be detrimental not solely to the effect of the authority as a regulator, but also to the interests of innocent scheme members. The specific circumstances of the matter must be taken into account. Having said that, however, the regulatory regime as envisaged by this Bill will ensure that once a trustee is struck off he could not be appointed as a trustee or administrator or professional adviser to another scheme. Adverse information such as censure or disciplinary matters are critical to the fit and proper criteria. Such negative information would preclude a trustee from future appointments. Furthermore, the legislation does allow the authority to pass on relevant information to other regulatory bodies and this it would do if the circumstances were sanctioned - if the trustee was involved in other regulatory activities. So if a trustee was involved in more than one scheme but had transgressed in one the regulator would inform other authorities. It is better, I think, Mr Acting President, to allow the authority the discretion, and I can assure the hon. member that if the situation warrants publication the authority would not hesitate to use its powers to safeguard the public and members' interests.

There is also a point raised by the hon. member Mr Crowe, and he mentioned a general concern with regard to the instructions imposed by the Bill in those circumstances when a company is bought by another. The primary concern of the authority is the protection of the member, and this was particularly so when companies were being bought and sold. However, the safeguards afforded by the legislation in front of us and by existing legislation are sufficient to provide protection for members. The Isle of Man enjoys a high reputation regarding the quality and control of all its financial services, and this Bill will allow these services to expand. The market place is ready to move into this new and potentially lucrative market. The Bill heralds a timely development and the pensions arena. provides for regulations that can be robust if required and yet provide the infrastructure to facilitate a new market for international pensions. This will enable the finance industry to diversify again still further and help us to maintain our position in the top flight of international finance centres.

Mr Acting President, I beg to move that the Bill be read a third time and do pass.

Mrs Christian: I beg to second, sir.

Mr Delaney: I would raise two small queries at this third reading on the clauses dealing with the people who are actually acting under the jurisdiction of the authority, and I wonder by regulation if the amount of trusteeship one person can hold in that number of companies is going to be controlled, and also the remuneration, which is the money and the assets of the third persons who are putting into these schemes - will there be something in regulation to control the fat cat situation for the future? Can I ask that?

Mr Radcliffe: Thank you, sir. Well it does not state in the Bill that there shall be a bar on the number of positions which a trustee will hold. I think the authority itself, if it would appear

that a trustee is involved in too many different schemes, would draw the line and certainly would not countenance a person holding a thousand trusteeships. Regarding remuneration, I think this would be in the hands of the members of the scheme, if I could assure the hon. member of that. Members will have a say to the trustees as to what the scheme should or should not pay out by way of remuneration and I do not think there is any real fear of a fat cat situation arising in this particular one.

Mr Delaney: Only time will tell, Mr Acting President.

Mr Crowe: Mr Acting President, I would just like to thank Mr Radcliffe for clarifying that point that I raised at the clauses stage. As he rightly says, the Island enjoys a high reputation in this industry and the Island is in the top flight of finance centres, and this, I believe, will help the Island to promote this form of business so, as I say, I am supportive of this. It will be interesting as time goes by as to whether Isle of Man schemes get equivalent recognition from other jurisdictions, but this is something for the future, not for the present. Thank you.

Mr Kniveton: Mr Acting President. I would like to congratulate the mover and his department, the Treasury also the Insurance and Pensions Authority for bringing forward this legislation. It appears a good amount of consultation has taken place back since 1997, we were told, and it is a new business opportunity for this Island. Now, pension provision is so very, very important these days. It is a major growth area and we as an Island must be well placed to take worldwide advantage of the apparent growth. As I understand it, the Bill provides a system for the protection of members of Manx pension schemes. That in itself must be good and I acknowledge the importance of it.

Now, we do have to make sure that pension funds here on the Island are secure, and I am sure this legislation which we are about to pass today could well bring many, many millions of pounds of funds to our finance sector, but there must be safeguards for regulating the new growing worldwide pensions industry to make sure that our Island is at the forefront of the industry. Obviously, Mr Acting President, I fully support this third reading.

Mr Waft: I would just like to say, Mr Acting President, that the protection for the clients of pension schemes is long overdue, but I do think perhaps we should have been able to set some basic standard requirements of pensions, for instance with the linking of pension schemes to some sort of index on retirement, because some fail to provide some of the standards that we would expect in this day and age. Thank you.

The Acting President: Any other member wish to speak to the third reading? Mr Radcliffe.

Mr Radcliffe: Thank you very much, Mr Acting President. There is little to reply to, really. The members here are very much in support of the Bill. Safeguards are incorporated into the Bill. Regulations can be robust if required, and the Insurance and Pensions Authority will not hesitate to use those regulations where they see a need for robust compliance.

The hon. member, Mr Waft - I think, when one enters into a contract with a pension scheme provider, there is a certain amount of onus, surely, on the person who goes into the scheme to look for certain safeguards before committing everything to a particular scheme. I think there is little more to be said, Mr Acting President, and I would beg to move again that the Bill be read a third time and do pass, sir.

The Acting President: Thank you. Right, hon. members, I will put to you that the Retirement Benefits Schemes Bill be read a third time and do pass. Will all those in favour please say aye; those against. The ayes have it. The ayes have it. Bill read a third time and passed.

Body-Piercing of Minors Bill – First Reading Approved

The Acting President: Item 3 on our agenda is the Body-Piercing of Minors Bill and it is in the hands of Mr Delaney, the hon. member, Mr Delaney.

Mr Delaney: Thank you, Mr Acting President. Members have in front of them the Body-Piercing of Minors Bill 2000, which is a small private member's Bill introduced by the hon. member for Ramsey, Mr Singer, and this Bill as intended will make it an offence to perform body-piercing on a minor - that is, a person under 18 years of age. The Bill inserts a new section in part III of the Local Government (Miscellaneous Provisions) Act 1984, which deals with tattooing and piercing. There are exceptions which allow body-piercing on a minor if written parental consent is given. Hon. members, there are exceptions for medical treatment and for a person who is under 18 who is married, as a parent no longer holds legal responsibility for that married person.

I hope this Bill will considerably - and all members are aware of individual cases I am sure even in this small community - reduce if not halt the body-piercing that is taking place on young persons. This piercing often is intimate and could constitute an assault. However, as all members will realise, parents are reluctant to take action and take their young children, often as young as 11, through the courts. Hon. members, I am sure, as I have said, know of individual cases, but this is here to give some parental control to the actions that have taken place, hopefully by a minority, but unscrupulous persons who have taken advantage of modern trends, and I hope members will give consideration to the Bill in the way that it was intended: to give some control over this situation.

The Bill will also give more than just comfort; it will make sure that permission for the child to have a body-piercing is linked with the clear support of body-piercing establishments and they should be controlled. It will help ensure that those who are over 18 and have all the facts before them will then be able to make a rational decision on whether they have their bodies pierced. I beg to move, Mr Acting President.

The Acting President: Is there a seconder?

Mr Waft: I beg to second, Mr Acting President. I would just like to say that localised infections can be very, very dangerous, especially in the region of the eyes and indeed other areas, and unnoticed infections can become very serious. We are told time and time again that infections are becoming more and more resistant to antibiotics so it has to be dealt with very seriously with the body-piercing and parental control is absolutely necessary.

Dr Mann: Mr Acting President, if this Bill is to become effective it will depend entirely on the practitioners. What is the present status of tattooists? Do they have to be registered? Do their premises have to be examined and controlled and if some new person wants to start a tattooing business, how does he set about establishing it? This Bill and its effectiveness will entirely depend on the control over the people who are doing it.

Mrs Christian: Mr Acting President, could I just add my voice to that of the hon. member, Dr Mann. Whilst this does indeed require parents to take some sort of decision in respect of what should happen to their children, it does not in any sense provide, or appear to provide, the standards which apply and I do believe that tattooists are registered and I would ask the hon. mover to confirm that body-piercers are also required to be registered in some form or other, because the way in which infection can be passed on through needles from one person to another would be quite horrific unless they are controlled and unless people understand this, and I guess we have a job to do in the DHSS in terms of health promotion and making people aware of the risks, but it would be reassuring to hear that anybody undertaking these practices does have to have a registration.

The Acting President: Does any other member wish to speak? Mr Delaney, would you like to respond to the points raised?

Mr Delaney: The supervision of tattooists was gone into some years ago, and of course this Bill is actually tied to the Local Government (Miscellaneous Provisions) Bill 1984, which gives certain powers and responsibilities to the Department of Local Government in relation to inspections et cetera of premises and registration. I understand that that is why it has been tied to that at the recommendation of the learned Attorney-General's section so in actual fact those parts are covered in the same way that tattooists are covered; I believe that might give you some comfort. I do appreciate, in fact, it not only affects the parents but it must be some cost to the health services if things go wrong, and unfortunately I am aware of a number of experiences where they have gone wrong, and this of course costs time, money of professional staff in the health administration for . . . how shall I say - beauty? What is beautiful about it, of course, I will leave it to the members' own discretion to consider! But the idea, to me, is that self-inflicted wounds - I think members will know that terminology - at one time to my knowledge were frowned upon and I think it should still be frowned upon, but I hope that gives the answer that is required, Mr Acting President.

The Acting President: Right, hon. members, then, I put it to you that the Body-Piercing of Minors Bill be read a first time. Will those in favour say aye; any against, no. The ayes have it. The ayes have it. The Body-Piercing of Minors Bill read a first time.

Agriculture (Miscellaneous Provisions) Bill – Second Reading Approved – Clauses Considered

The Acting President: Item 4, the Agriculture (Miscellaneous Provisions) Bill for second reading in the hands of the hon. Mr Crowe.

Mr Crowe: Thank you, Mr Acting President. This Bill introduces amendments which will affect 10 pieces of legislation in one way or another, the majority of them in minor ways. The principal change to the Agricultural Holdings Act 1969 is to insert a new section which will have the effect of enabling a tenancy of bare agricultural land for a term between one and five years to be agreed, subject to certain conditions. The Wildlife Act 1990 is amended so that occupiers of land will require a licence from the Department of Agriculture before killing or taking birds in areas of special protection. The Bill also covers amendments to legislation relating to the charging of fees which is designed to simplify existing provisions. Amendments to the Agricultural Marketing Act of 1934 will give powers of entry to ensure compliance with import restrictions under the 1934 Act. The powers to make bye-laws under section 2 of the Sea Fisheries Act 1971 are also amended. These relate to the carriage of undersized fish on board vessels and to the possession and sale of undersized sea fish in the Isle of Man. Mr Acting President, I beg to move the second reading of the Agriculture (Miscellaneous Provisions) Bill.

Mr Waft: I beg to second, Mr Acting President, and reserve my remarks.

The Acting President: Does any member wish to speak to the second reading? No? Right, well, I will put it that the Agriculture (Miscellaneous Provisions) Bill be read a second time and do pass. Will those in favour please say aye; any to the contrary, no. The ayes have it. The ayes have it. I am led to believe that the hon. member would like to take the clauses and he would like to take them one by one. Is that correct?

Mr Crowe: Yes, Mr Acting President, thank you.

The Acting President: We go on to the clauses then of this Bill and I ask the hon. member Mr Crowe to take clause 1.

Mr Crowe: Clause 1 deals with agricultural tenancies. The present situation is that, other than simply for grazing or mowing, short-term leases can be drawn up for periods of 364 days. If any period of more than a year is set, rights of longer-term agricultural tenancies may be created. A landowner may not have immediate short-term plans for using a particular piece of land in the future, but may have a future use in mind for it in the mid term. The protection that

current legislation quite rightly provides for long-term tenants can potentially be turned against the landowner and make it difficult to take back land originally let for shortish to mid-term leases. The result is that it may not seem advisable to the landowner to let out the land for a period of more than a year. On the other hand, people with a short-term lease of less than a year will not want to invest in manuring the land or developing it in some way as part of a mid-term planned agricultural use. From their point of view, at the end of the year the lease may not be renewed. The result is that the land is not put to such productive use as it might be.

This amendment to the Agricultural Holdings Act 1969 provides for practical arrangements so that a lease of up to five years can be drawn up without creating a statutory tenancy. It will mean that landowners need not be wary of entering into a short to mid-term lease with a tenant. They will be able to have access to the land again for their own purposes at the end of the tenancy. It will also mean that tenants can enter into a short to mid-term lease with security of tenure during the period of their mid-term agricultural project over a period of up to five years. The overall result will be that parcels of good agricultural land which currently lie fallow for the reasons outlined will prospectively be brought into good productive use.

The amendment will involve a procedure of notification by both parties and acknowledgement by the Department of Agriculture that the lease will not establish a statutory tenancy. Such a lease shall only apply to agricultural land on which there is no dwelling or other farm building except of a minor or subsidiary nature. It is, however, important, Mr Acting President, to stress that all of the present protection is retained for existing long-term tenancies. That was long sought for and much needed and gives tenants the protection of statutory tenancies in relation to farms with all their dwellings and outbuildings. However, the short to mid-term problem has been recognised by the industry for many years. Consultation over a good number of years has taken place with the Manx National Farmers Union and the Isle of Man Agricultural Marketing Society to arrive at this formula, which limits the non-statutory tenancy agreements to periods of from one to five years and only in respect of bare agricultural land. Mr Acting President, I beg to move the first clause.

Mr Waft: I beg to second and reserve my remarks.

The Acting President: Does any member wish to speak to clause 1 of the Bill? Mrs Christian.

Mrs Christian: Yes, Mr Acting President. This change, I think, will be welcomed in many quarters, but I do see it as something of a mixed blessing. Certainly the ability to have something between the 364-day letting and the permanently secured tenancy is to be welcomed, and that in itself will lead to, I believe, improved husbandry on land when people can take a longer-term view than the single-year view. That, I think, is going to be beneficial and useful.

In terms of what it might offer to young farmers who are seeking to get into agriculture, I can see it being a step in the right direction, but of limited value. It does allow that a lease of up to five years can be obtained where a permanent tenancy is not available, but this is only on bare agricultural land without any substantial buildings, and that might allow people to get a start, but again, making a start in agriculture is not that easy and whether or not loans will be available from finance houses on the basis of five-year projections might be questioned.

My other concern is about what is going to happen in relation to what I would describe as whole or full farms if, for example, the current statutory provision for security of tenure continues, but when the statutory tenant with that security has no-one to follow them or seeks to give up farming, then the security disappears when that tenancy finishes. What then, I wonder, will be the approach of the landowner in those circumstances? Will they be willing to, once again, enter into a position of secure tenancies or will they be tempted to split the unit up into a parcel of land with desirable house and other small bare land sections? I guess this can

only be tested in the light of experience, but I think it is a useful move in the limited way it is presented. Whether it seeks to address the questions which many people felt it was to address - and that is the plight of the young person trying to get into agriculture - will remain to be seen, but I feel it may be of limited value in that respect.

The Acting President: Does any other member wish to speak? The hon. Mr Crowe to reply.

Mr Crowe: Thank you, Mr Acting President. I thank Mrs Christian for her comments and, as she rightly says, the extension of the leases from 364 days to up to five years is certainly going to help to improve the land by rotational farming. As to her other comments about young farmers or young people wanting to go into farming - and there are always people, I would guess, who would want to take up farming, and if it has been in their family tradition or even not in their family tradition it is an occupation which is to be warmly applauded for anybody wanting to start a business - it is a step in the right direction. Hopefully, if this works and works well, it can be improved on in the future.

Mrs Christian also raises this interesting point about the statutory tenancy where families have the benefit of a protected tenancy, and she raised an interesting point about what happens if they retire and nobody wishes to continue with that protected tenancy. That is an interesting point, because it then gives the landowner complete flexibility as to what happens and I think you are absolutely right: it can only be tested in the future. So I think the intention of the department is to help farming by this amendment and I hope members will be able to support it. Thank you, Mr Acting President.

The Acting President: Thank you, hon. member. Will all those in favour of clause 1 standing part of the Bill please say aye; those against, no. The ayes have it. The ayes have it. Clause 2, Mr Crowe.

Mr Crowe: Thank you, Mr Acting President. Clause 2 refers to bird sanctuaries and it amends the Wildlife Act 1990 to bring further protection to birds in areas of special protection. Consultation has taken place with the landowners associated with areas of special protection.

There are three provisions for the protection of birds introduced by clause 2(a). In sub-paragraph (i) the definition of species to be protected under orders made by the department in respect of an area of special protection is extended to game birds and poultry as other wild birds. Sub-paragraph (ii) makes the definition of an authorised person who may kill birds at such sites more stringent and it needs written authority from the Department of Agriculture or from the Isle of Man Water Authority. In sub-paragraph (iii) any bird sanctuary set up under the Wild Birds Protection Act 1932 is brought within the protective provisions of the 1990 Act as an area of special protection for which the department may make orders. There is an existing requirement that any persons who keep or have in their possession any bird which is given in a list in schedule 4 of the Act have to be registered.

Clause 2(b) means that the department may charge a fee and the fee will be set under the Fees and Duties Act 1989 in an order made by Tynwald, so members will have an opportunity to be aware of and to comment on fees to be charged. Section 16 of the Wildlife Act provides that some sections of the Act do not apply in certain limited circumstances and then only provided they are done under and in accordance with the terms of a licence granted by the department. The present wording also provides a similar general derogation from orders made under section 3 of the Act in relation to areas of special protection of the birds. Such areas may only be designated with the full permission of all the owners and occupiers of the area. Sub-clause (c) of clause 2 limits that derogation to anything which may be done by the owners or occupiers of land or a person authorised by them recognising their interests but again subject to the terms and conditions of a licence granted by the department.

Mr Acting President, I beg to move clause 2 of the Bill.

Mr Waft: I beg to second, sir.

The Acting President: Does anyone want to speak to clause 2 of the Bill?

Mrs Christian: Again I think, Mr Acting President, this is an interesting one in that it is to be welcomed that there is some encouragement given to the protection of wildlife species and a wider protection here but that it is tempered, I understand from what the mover has said, by the rights of the owners in those areas because we are all aware of areas where wildlife sanctuaries have been established and they have become an absolute menace and pest (**Mr Radcliffe:** Hear, hear.) to neighbouring farmers. The balance has to be found and it is not always easy to do that, but we would hope that the powers would be used with some discretion.

The Acting President: Does any other hon. member wish to speak to the second clause? Mr Crowe to reply.

Mr Crowe: Thank you, Mr Acting President. Yes, I thank Mrs Christian for her remarks and she is absolutely right, a balance has to be found between protecting the birds in special areas and with the needs and requirements of the landowners to go about their normal trade so that their crops are not damaged by too much protection, so again it is a technical measure and it will depend again on the interpretation and the role of the department in administering this clause. Thank you, Mr Acting President.

The Acting President: All those in favour of clause 2 standing part of the Bill say aye; those against? The ayes have it. The ayes have it. Clause 3.

Mr Crowe: Clause 3 talks about fees and charges. What has happened in the past is that some of the fees and charges have been placed into primary legislation, and this causes a problem because primary legislation has to be amended every time, which is not appropriate for the minor nature of what is involved. It is far less cumbersome to give the department power to make orders again subject to the approval by Tynwald, and that is exactly what clause 3 does.

First of all sub-clause (1) of clause 3 refers to the Pinfolds Act 1963, and the amendment gives the department an enabling power to make an order setting fees for pinfolding animals subject to the approval of Tynwald.

Secondly, sub-clause (2) of clause 3, the Animal Boarding Establishments (Isle of Man) Act 1973 - the amendment provides that the fee, instead of being set within the primary legislation, would be set by an order of the Treasury under the Fees and Duties Act 1989 and again would be subject to Tynwald approval.

Third, as the the Fees and Duties Act 1989 is being used to amend the Animal Boarding Establishments (Isle of Man) Act a similar provision is here made in sub-clause (3)(a) of clause 3 in respect of the Breeding of Cats and Dogs Act 1981. This means that the appropriate fees can be set under a Treasury order subject to the approval of Tynwald. Sub-clause (3)(b) and sub-clauses (4) and (5) the legislative draftsman includes consequential amendments in connection with the provisions already made.

Mr Acting President, I beg to move clause 3 of the Bill.

Mr Waft: I beg to second.

The Acting President: Does any member wish to speak?

Mr Radcliffe: Could I just raise a point? It is half to do with the clause and the situation these days regarding pinfolds. In the old days, of course, each parish had its own pinfold for stray animals but now, as I understand it, I think St John's is the pinfold for the whole of the Isle of Man and, for example, the other day I had a field where five horses had come in overnight, had been wandering, of course, and they were there for quite a little while, and had

they been there much longer I would have been seriously thinking about pinfold action. How the devil I would have got them moved from Andreas to St John's I do not know but, rather than just turfing them out on the road again and letting them wander, which is unfair on the animal anyway, the thought had crossed my mind and then this particular Bill has mentioned the pinfold - what does a person really do? If you hire a wagon it is a cost to somebody which you are going to have to recover as a landowner from somewhere, and I must say it is a pity that the old parish pinfolds have gone because at least you could drive them a mile or two and put them in, whereas now it is a case of hiring a vehicle of some sort to carry animals to St John's. I just wonder if the hon. member would care to comment on that or not.

Dr Mann: The department can establish a pinfold at wish, you could have rung them up and asked them to establish one up in Andreas.

The Acting President: The hon. member to reply.

Mr Crowe: Fortunately when I read the notes and everything I was fortunate in being brought up in Kirk Michael, because when I was a child they did have a pinfold and it was strange - even in those days some people used to tend animals on the side of the verge of the road, so fortunately I knew what a pinfold was, but as to five horses coming in I can only think they were probably losing horses in the Grand National and somebody was trying to give them away or something (*Laughter*), but at least Mr Radcliffe was honest enough to say he would have to get rid of them; he did not volunteer to keep them! But I would guess there is a problem. If you had then to hire a wagon to take them to St John's and have them tended then I would guess that you would have a lean on the value of the animals for any costs that had been undertaken, but that is only my supposition; I would not count it as legal advice, Mr Acting President! With that I close my remarks.

The Acting President: Well, we are heading for the last round-up - you never know what you are going to find up in Andreas when you open your eyes. Anyway, we have before us clause 3 of the Agriculture (Miscellaneous Provisions) Bill. All those in favour of clause 3 please say aye; those against, no. The ayes have it. The ayes have it. Clause 3 passed. Clause 4, Mr Crowe.

Mr Crowe: Clause 4, Mr Acting President, relates to enforcement relating to EU-derogated products. Under the Agricultural Marketing Act 1934 it permits import restrictions to be imposed.

In certain circumstances there are products which it is not permitted to import into the Island. Such restrictions would arise where they were approved under arrangements agreed with the European Community. However, there have been no powers of examination entry by officers to ensure compliance with restrictions. Clause 4, therefore, is an amendment to provide powers of examination entry and also provides an offence and penalty for obstructing an officer carrying out such duties. Where agricultural products are imported in breach of restrictions they will also be liable to forfeiture. Members will see that the powers are fully circumscribed and are consistent with powers to enter and examine produce already embodied elsewhere under the Act in respect of other circumstances. It has been an anomaly that there were no such powers in respect of products that fall into this category, and this clause removes that anomaly. Mr Acting President, I beg to move.

Mr Waft: I beg to second and reserve my remarks.

The Acting President: Does any hon. member wish to speak to clause 4 of the Bill? No? Right, I will put that clause 4 of the Agriculture (Miscellaneous Provisions) Bill be approved. Will those in favour please say aye; any against? The ayes have it. The ayes have it. Clause 5, Mr Crowe.

Mr Crowe: Clause 5, Mr Acting President, relates to the retention of catches on board a fishing vessel.

Sub-clause (1) clarifies the attention of the Sea Fisheries Act 1971. The present wording enables bye-laws to be made in relation to taking and killing sea fish. Some species which a fisherman does not intend to take may die before they can be returned to the sea, while other species such as scallops may live out of water for up to three days. Fishermen may take and kill fish which are not retained but it would not be appropriate to take legal action. On the other hand a person may attempt to retain on board live undersized or unseasonal scallops. For the avoidance of doubt clarification will underline the department's positive approach in dealing with scallops, which is the single most important commercial fishery prosecuted by the Isle of Man fleet. The amendment amplifies the wording concerning taking, killing, retention or carriage on board any vessel of catches as well as the landing, possession, sale, exposure for sale or offer for sale about which bye-laws may be made. This will make it absolutely clear that 'taking' includes the retention on board.

There is another consequential amendment in sub-clause (2). An earlier amendment to section 2(1)(b) of the Act by the Agriculture and Fisheries (Miscellaneous Provisions) Act 1998 is repealed as a consequential provision of the current amendment. Mr Acting President, I beg to move clause 5.

Mr Radcliffe: I beg to second.

The Acting President: Does any hon. member wish to speak to clause 5?

Mr Waft: On page 6, 'for restricting or prohibiting, either absolutely or subject to such conditions as may be prescribed by the bye-laws the landing, possession, sale, exposure for sale or offer. . . in the Isle of Man of - ' and it says '(whether processed or unprocessed)'. Where does the unprocessed part come into that, or am I missing something here? How do you land processed?

Mr Crowe: Well, I guess that if they caught some fish and they gutted the fish on board ship it would be processed, I would guess.

Mr Waft: That is after they are caught?

Mr Crowe: Oh yes, after they are caught! I would guess so!

The Lord Bishop: You could get sardines that grow in tins! *(Laughter)*

The Acting President: You learn something new every day, Bishop! *(Laughter)*

Mr Crowe: What happened in previous legislation - it was not clear from a legal point of view and this actually makes it absolutely clear and it makes it certain, so although there is a lot of technical jargon there, shall we say, it is to make it absolutely clear that people can be charged with offences when they do something illegal in this area.

The Acting President: Right, I will put then that clause 5 do stand part of the Bill. Will those in favour please say aye; any against? The ayes have it. The ayes have it.

Clause 6.

Mr Crowe: Clause 6, Mr Acting President, is the short title and commencement, and clause 6 provides that the Act may be cited as the Agriculture (Miscellaneous Provisions) Act 2000 and it will come into effect on such day or appointed day as shall be given for it. Mr Acting President, I beg to move.

Mr Waft: I beg to second.

The Acting President: Does any member wish to speak to this? No? Right, I will put clause 6 do stand part of the Bill. Will those in favour please say aye; those against? The ayes have it. The ayes have it. Bill and clauses read a second time.

**A Bill re the Election of the Presiding Officer of the Council –
Notice of Intention to Seek Leave to Introduce**

The Acting President: Hon. members, any other business? I believe Dr Mann wishes -?

Dr Mann: Mr Acting President, under standing orders - I cannot remember which one I wish to give notice that I will seek leave to introduce a private member's Bill to re-establish the position of the presiding officer of this Council to be elected from within the members of this Council as previously existed.

The Acting President: Hon. members, I am assured that the request of the hon. member does accord with standing orders and I put it to Council that Dr Mann has given the intention that he will be introducing a Bill to do with the constitution of the Council. Is that agreed?

Mr Crowe: I am sorry, Mr Acting President, I am not sure. Are we voting to accept the standing order or to -

The Acting President: He is just giving notice; he is just announcing that he is giving notice so we do not really need a vote on it. I am just putting it to the Council for clarity that Dr Mann will at a future meeting seek leave to introduce a Bill on dealing with constitutional matters.

Okay, that concludes our business in public and this Council will adjourn until 2.30 today in Tynwald Court and hence to Tuesday 9th May, the next meeting of the Legislative Council.

I thank hon. members for the courtesy first of all for putting me in this chair and secondly for the way in which you have allowed me to conduct it, albeit in a very amateurish and learning curve. Thank you very much. The Council is adjourned until Tynwald Court.

The Council adjourned.