

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS
(LEGISLATION AND OTHER MATTERS)**

**Douglas, Tuesday, 30th April 2002
at 10.00 a.m.**

Present:

The Speaker (the Hon J A Brown) (Castletown); Mr D M Anderson (Glenfaba); Hon A R Bell and Mr L I Singer (Ramsey); Mr R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel); Hon S C Rodan (Garff); Mr P Karran and Hon R K Corkill (Onchan); Mr G M Quayle (Middle); Messrs J R Houghton and R W Henderson (Douglas North); Hon D C Cretney and Mr A C Duggan (Douglas South); Hon R P Braidwood and Mrs B J Cannell (Douglas East); Hon A F Downie and Hon J P Shimmin (Douglas West); Mr D J Gelling (Malew and Santon); Mr Q B Gill and Hon Mrs P M Crowe (Rushen); with Mr M Cornwell-Kelly, Secretary of the House.

The Chaplain took the prayers.

Apologies for Absence

The Speaker: Hon. members, I have given leave of absence from this sitting to Mr Braidwood, Mr Earnshaw and Mr Rimington, and if the House sits after our lunch adjournment, leave of absence has also been granted to Mr Singer.

Questions were taken at this point and concluded at 10.55 a.m. They are published separately.

Procedural

The Speaker: Before I move on to the next item on the order paper, I wish to make a point in relation to issues of statements made in the House by hon. members. As hon. members are aware, the order paper periodically shows that a statement is to be made by a member, usually, though not always, about government business; however, some statements are of a personal nature. At present, there is no explicit provision in the standing orders of the House for statements, and therefore, in order to clarify the practice to be adopted, the Standing Orders Committee of the House have requested that I should give directions on the matter.

I have given this matter consideration, and accordingly I give the following direction, which I make under the provisions of standing order 2:

All statements made by members shall, unless they are made with the consent of Mr Speaker on a matter of urgency, be noted on the order paper for the sitting at which they are to be made, which shall indicate their subject matter, if it is related to the business of government or any public body, or indicate that the statement is made by the member in his or her personal capacity. The text of the statement, except in relation to a personal statement, shall be provided to each member of the House at or before the time it is made.

I have instructed the Secretary of the House to act in accordance with this direction. Thank you, hon. members.

Papers Laid before the House

The Speaker: Hon. members, we now go on to item 3 on the order paper, and I call on the Secretary of the House to lay papers.

The Secretary: Mr Speaker, I lay before the House:

The petition of Barclays Bank PLC.

The Speaker: Hon. members, I have to report to the House that the matter has been certified to me by the Secretary and that he has examined the petition of Barclays Bank PLC, pursuant to standing order 189, and found it to be in order. The Secretary has also certified that he gave directions to the petitioners, pursuant to standing order 191, to advertise the petition in the Isle of Man, the United Kingdom, Jersey and Guernsey, and that he has received satisfactory evidence that that has been done.

Suspension of Standing Orders — Approved

Item 4.1. The hon. member for Malew and Santon (Mr Gelling) to move:

That standing orders be suspended to the extent necessary to permit the motion at item 5 and the business at items 6 and 7.1 of this order paper to be taken.

The Speaker: We now turn to item 4 on our order paper, and I call on the hon. member for Malew and Santon, Mr Gelling.

Mr Gelling: Yes, thank you, Mr Speaker. About a week ago - in fact, a week ago yesterday - I informed hon. members of the way in which we hope to handle this particular Bill, and therefore I would, under standing order 198, ask hon. members that we suspend to the extent necessary to permit the motion at item 5 and the business of 6 and 7.1 on this order paper today to be taken. Now, that is under standing orders 213, 151 and 152, and I beg to move, therefore, that the standing orders be suspended so that we can continue with this particular Bill, sir.

The Speaker: Chief Minister.

Mr Corkill: I beg to second, Mr Speaker.

The Speaker: Are there any hon. members wishing to make any comment? Hon. member for Ramsey, Mr Bell.

Mr Bell: Just a very quick point, Mr Speaker. I just would urge hon. members to give their wholehearted support to this measure. The news which we have received from Barclays Bank is an extremely good piece of news for the Isle of Man (**A Member:** Hear, hear.), coming at what has been, for offshore jurisdictions, a very difficult period. It points the way forward for the Isle of Man, and I believe the Isle of Man Government should show its support now for Barclays Bank by giving the wholehearted support this measure needs.

The Speaker: Hon. member for Onchan, Mr Karran.

Mr Karran: Eaghtyrane, I would ask that I do hope that the mover of this proposal will show the same leniency as far as standing orders are concerned when we have issues of social welfare and other issues like that in this hon. House. Whilst I will not be opposing the move today, I just feel that there are many outside this hon. House who are concerned that, when it comes to priorities, some things can be put in at the speed of light when it comes to legislation, and other things can be put in at the speed of a snail when they deal with the core constituents that I represent.

The Speaker: Hon. members, I would just make the point that the leniency is not with the member who moves the motion; the leniency is with the members of this House (**A Member:** Hear, hear.), and it is for them and them alone to determine whether or not our standing orders are suspended. The member has the right to move a motion to seek that suspension, which is what he is exercising today. So, does any other hon. member wish to make any comment?

Mr Karran: Point of order, Vainstyr Loayreyder.

The Speaker: Yes, hon. member.

Mr Karran: I have no problem with that; I am just hoping that he will reciprocate it if we ever bring anything forward.

The Speaker: Hon. member, whether or not a member reciprocates with the move of another member to suspend standing orders is totally irrelevant to this motion. It is a matter for the House whether or not they wish to suspend standing orders to let the matters on the order paper that require suspension to proceed. The hon. member for Malew and Santon, do you wish to reply, sir?

Mr Gelling: Only to say, Mr Speaker, that, of course, this would not be before us but for the timing issue - and I am quite sure the hon. member for Onchan realises that - and that we would not be asking members to suspend standing orders if, in fact, it could have been put through in the normal manner. So I would, having noted what the hon. member has said, say to hon. members sitting here this morning that, it is good news and I would appreciate their support, sir.

The Speaker: Hon. members, before I put the matter to you for a vote, I would just clarify that this is a private Bill, and therefore standing order 213 comes into play and, in fact, is paramount to the matter before you. Standing order 213 states: 'No private Bill, except those which have been passed by the Council, shall be considered by the House unless the same be introduced and the printed copies delivered on or before the first day of a meeting of the House in April in the legislative year in which the same is to be discussed.' Therefore the suspension of standing order 213 is to enable the House to proceed with this business, because the timescale of it being before the House before the first sitting in April has not been complied with. Standing orders that follow that, which are standing orders 151 and 152, are procedural once that has happened. I put before the House item 4.1, which is 'that standing orders be suspended to the extent necessary to permit the motion at item 5 and the business at items 6 and 7.1 of this order paper to be taken.' All those in favour please say aye; against, no. The ayes have it. The ayes have it.

Leave to Introduce A Bill to Transfer the Undertakings of Barclays Bank — Leave to Introduce Granted

Item 5.1. The hon. member for Malew and Santon (Mr Gelling) to move:

That on the petition of the promoters, Barclays Bank PLC, the petitioner having certified the required compliance with Standing Order 191, leave be given to introduce a Bill: 'to carry into effect the transfer to, and vesting in, Barclays Finance Company (Isle of Man) Limited of the undertaking or parts of the undertaking of the Isle of Man branch of Barclays Bank PLC; to provide for the acceptance by Barclays Finance Company (Isle of Man) Limited of the transfer to, and vesting in, it of the undertakings or part or parts of the undertakings of the Jersey and Guernsey branches of Barclays Bank PLC and the undertakings or part or parts of the undertakings of each of Barclays Bank Finance Company (Jersey) Limited, Barclays Finance Company (Guernsey) Limited and Woolwich Guernsey Limited; and for connected purposes.'

The Speaker: I now call on the hon. member for Malew and Santon, and we turn to item 5, Leave to Introduce a Private Bill.

Mr Gelling: Thank you, Mr Speaker, and could I thank hon. members for their support. We can continue with my request to members for leave actually now to introduce the Bill, and of course it is the preamble that is at number 5: 'That on the petition of the promoters, Barclays Bank PLC, the petitioner having certified the required compliance with standing order 191,' - which you have already informed members of, Mr Speaker - that we give leave to introduce a Bill 'to carry into effect the transfer to, and vesting in, Barclays Finance Company (Isle of Man) Limited of the undertaking or parts of the undertaking of the Isle of Man branch of Barclays Bank PLC; to provide for the acceptance by Barclays Finance Company (Isle of Man) Limited of the transfer to, and vesting in, it of the undertakings or part or parts of the undertakings of the Jersey and Guernsey branches of Barclays Bank PLC and the undertakings or part or parts of the

undertakings of each of Barclays Bank Finance Company (Jersey) Limited, Barclays Finance Company (Guernsey) Limited and Woolwich Guernsey Limited; and for connected purposes.'

Now, Mr Speaker, I believe, as has been already stated, that standing orders have been complied with, including the 160 copies of the Bill which were delivered to the Clerk, and the advertisement which was in the *Examiner* on Tuesday April 23rd, so therefore that was carried, and for the reasons given, Mr Speaker, and the fact that the Bill will give Barclays their headquarters and front office in the Isle of Man, I therefore ask hon. members to support the leave to introduce the Bill to the House this morning, sir.

The Speaker: Hon. member for Garff, Mr Rodan.

Mr Rodan: Thank you, Mr Speaker. I am pleased to second the motion seeking leave to introduce, and in doing so, perhaps I could remind the House, as has been stated, that this is private legislation. In the previous House, sir, I had the honour to take two private Bills - the Lloyds TSB Bill, which sought the merger of those two banks, and the Royal Bank of Scotland International Bill, which sought to consolidate the business of the bank with that of NatWest Offshore - and on both occasions the House showed itself to be very accommodating, by giving leave to introduce. On the occasion of the Royal Bank of Scotland Bill, it did so in a similar manner as we have done today, in that, because of the timing, post-1st April, it was then also necessary to suspend standing orders to bring the motion forward for leave to introduce, but the House was extremely accommodating and showed itself willing to expedite this legislation to meet the commercial demands and the timetable requirements of the Banks concerned. In doing so, the House considerably enhanced the Island's reputation for having a legislative framework in place that proved helpful, and when circumstances demanded, as is the case today, the legislative framework was sufficiently nimble to accommodate the commercial needs of the finance sector.

On this occasion today, of course, the subject matter, as the mover has said, will have the effect of moving to the Isle of Man a bank's international headquarters, and unlike the two previous Bills, and therefore to some extent, the Isle of Man has a considerable amount to gain from the passage of this legislation in terms of its international standing being enhanced, and therefore, Mr Speaker, I do have pleasure in seconding and ask the House to support this measure.

The Speaker: Hon. member for Malew and Santon to reply.

Mr Gelling: Nothing except to thank hon. members, Mr Speaker.

The Speaker: Right, hon. members, item 5.1 is before the House, in the name of the hon. member for Malew and Santon, Mr Gelling. All those in favour please say aye; against, no. The ayes have it. The ayes have it.

Bill for First Reading

The Speaker: Item 6.1. Hon. members, I now call on the Secretary to the House to announce a Bill for first reading.

The Secretary: Mr Speaker, for first reading is the Barclays Bank Private Clients International Bill.

Barclays Bank Private Clients International Bill — Second Reading Approved

The Speaker: Item 7.1. I now call on the hon. member for Malew and Santon, Mr Gelling, for second reading of the Barclays Bank Private Clients International Bill.

Mr Gelling: Yes, thank you very much, Mr Speaker. The purpose of this Bill is to allow for the reorganisation of the Isle of Man and Channel Islands operations of Barclays Bank PLC and its subsidiaries. The reorganisation will result in a Manx company currently named Barclays

Finance Company (Isle of Man) Limited, but to be renamed Barclays Private Clients International Limited, becoming the main operational entity for Barclays across the Crown dependencies, with branches of the Manx company being located in Jersey and Guernsey.

The reorganisation will also involve more mind and management being devolved from London and actually located in the Isle of Man; this will be achieved by an Isle of Man board of directors, responsible for the whole of the business conducted across the Crown dependencies. The reorganisation can thus be seen to be an extremely positive development for the Isle of Man and the kind of development which, I am sure hon. members will agree, we have all worked long and hard to achieve through our economic and fiscal strategy.

Whilst the reorganisation will have little immediate effect on mainstream activities and jobs, generally going forward the Isle of Man will be the preferred location for new rTMles as the business continues to grow, taking account of the significant opportunities which Barclays believes exists in the international banking arena. Where new rTMles are created, these are, I am pleased to report, likely to be the front office generating rTMles, which is exactly the sort of employment I think best represents the long-term future of the financial services industry on the Isle of Man. Mr Speaker, as a result of the reorganisation, the Manx company and its offshore branches will have customer deposits of some £13 billion and 1,000 employees across the three islands - a sizeable concern by any standards, and indeed, according to published data, it will be the largest concern, in terms of deposits, in the Crown dependencies.

Hon. members, this Bill is the consequence of a commercial decision to merge the majority of the bank's operations in the Isle of Man and the Channel Islands into a single company with presence in all islands. Among the reasons for this decision are that Barclays believe it will provide more tax-effective use of its capital, it will permit a more streamlined management structure and is a catalyst for future streamlining of operations in the business. The integration will enhance Barclays' continued presence on the Island and should, over time, improve customer service still further.

Mr Speaker, there is at present no public Act of Tynwald which deals with bank mergers; the current main legal techniques of effecting such mergers involve using consensual arrangements, companies' legislation providing for amalgamations and reconstructions, and private Acts of Tynwald. The recognised way to unite two or more banking undertakings is to transfer one to the other; the need to have a Bill in these circumstances derives from the fact that a bank may not transfer a customer's money to another body without the consent of that customer. Therefore, to unite the Manx company with the undertaking of the Jersey and Guernsey companies, and the branches of the PLC, would require the written consent of all account holders of all but the Manx company. Given the large numbers of customers and relationships which these companies have, being in excess of 250,000, consensual arrangements are considered, therefore, to be impractical. The companies' legislation cannot be used because it only applies to Manx companies. A private Act of Tynwald is therefore considered the only practical means of achieving the merger, eliminating as it does much of the expense and risk associated with the consensual techniques to which I referred. This proposed method of dealing with the merger has been put to the Financial Supervision Commission, and they have raised no objections.

As indicated, following the reorganisation, the business will be conducted in the Isle of Man by the Manx company, and in Jersey and Guernsey by branches of the Manx company. The legislation will shortly be introduced into the parliaments of Jersey and Guernsey, and these will not result in any disadvantages for Barclays' customers. The operations will be subject to detailed banking regulations, both here and in Jersey and Guernsey, and, in particular, customer's deposits in the Isle of Man will still be protected under the terms of the Isle of Man depositors' compensation scheme. Hon. members may ask why the decision was taken to

merge the Jersey and Guernsey businesses into the Isle of Man entity, rather than vice versa. There are a number of reasons: Barclays has already centralised a number of its international banking activities here on the Island, and overall Barclays International Banking already employs more staff in this location than in either of the other two islands. Additionally, Barclays has studied carefully Tynwald's approach to the OECD and the EU initiatives, as well as our published tax strategy. Barclays additionally believe there exists here greater flexibility. Members should not, however, think that Barclays is less committed to the Channel Islands, where its operations are, and will continue to be, very significant. It just feels, for a number of reasons, that its operations are best headquartered here, and I agree with that, Mr Speaker.

I mentioned earlier that, following on from this reorganisation, it is anticipated that there will be a positive front-office-based employment here in the Isle of Man. For the avoidance of doubt, it is, I think, worth saying that there will thereby be no local redundancies as a result of the reorganisation. Barclays has undertaken to offer staff benefits of at least the same value where changes to conditions are necessitated by virtue of, for example, the UK pension laws, and the principle union of Barclays, UNIFI has been consulted over the impact of these proposals.

Finally, Mr Speaker and hon. members, the Island has developed an enviable reputation as an international finance centre which is well regulated but also facilitates the legitimate commercial requirements of the institutions that have established themselves here. Barclays, which directly and indirectly contributes significantly to Manx tax receipts, is a large international financial concern, but it is also extremely important to our domestic market. Accordingly, I therefore hope that members can give this Bill its second reading and its endorsement, and support a group which already makes an invaluable contribution to the Manx economy and which, by this reorganisation, has made an immense commitment to the Isle of Man and, I believe, a vote of confidence in its future. Mr Speaker, I therefore beg to move the second reading of the Bill, sir.

The Speaker: Hon. member for Ramsey, Mr Bell.

Mr Bell: Mr Speaker, I beg to second and reserve my remarks.

The Speaker: Hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. I am pleased that Barclays is considering the Isle of Man and what we can offer Barclays in the same way as what Barclays can offer us. However, when we make money or when Barclays or any other organisation makes money, it has to come from somewhere, and I think we should, in situations such as this, think where the funding is coming from. Now, this organisation does have - and I only know because of asking a question at the briefing - its social and environmental report 2002; I am not going to quote from it, because other members have not got it, but it is quite a considerable glossy document to show how it plays its part in the community, but only as far as what it supports is concerned, and it does not really go into the area of how it is able to raise this sort of money. I will be criticised for raising this now, because this is seen as something which is to our advantage, but I think that, in certain circumstances, we should be aware of, or at least even think about, how funds are raised to get to this stage, where there is this huge amount of money, by one organisation. We do know that banks go under from time to time because of inappropriate investments and the like, and it has happened here on at least three occasions that I know of.

Mr Karran: You are a bit young for Dumbell's.

Mrs Hannan: I am a bit young, but I know two others. So, inappropriate investment; but I do know that some time ago Barclays were involved with rainforests in Indonesia, and the amount of money that was made from that incursion in there, not only raising money for Barclays' shareholders, but actually causing damage to the earth as a whole.

So, in raising money and in helping our finances, these sorts of things have happened, and I think that, from time to time, we should be looking at these organisations - not just Barclays, but other organisations involved in financing the Isle of Man - as to what happens to get to that position. And in a different way, the Isle of Man Government is in a position where it can fund various things in the Third World through the Council of Ministers' Overseas Aid Committee.

The Speaker: Hon. member, could I, if I may, interrupt? I would ask you to come closer to the Bill, please. I know you are making a point; I think you have made the point. It is the second reading of a Bill that is before the House, and you are broadening it out further than the purpose of the Bill.

Mrs Hannan: I hope, Mr Speaker, that I will be able to bring it back to this, because I feel that, while companies are able to raise money and we are able to fund things because of that, I do not think that it makes up for the initial damage that is done in these places, and I would just urge government as a whole to think about . . . It is all very well providing work here; we have got more work than we can provide for, and I just think there needs to be a little bit of balance, and I would hope the Council of Ministers will look at it.

The Speaker: Hon. member for Onchan, the Chief Minister.

Mr Corkill: Thank you, Mr Speaker. Just following on from the hon. member for Peel who has resumed her seat, I am sure she will not mind me saying that she has, in fact, corresponded with myself, and in turn I have corresponded with Barclays PLC, on this issue of responsible investment policy. I can assure the hon. member that that point has actually been well received and taken on board, and certainly the correspondence I had back indicated to me that some of the investment policies which *have* happened - and the hon. member used those words 'have happened in the past' - have actually changed in the light of modern-day environmental responsibilities. Just to follow on from the point the hon. member made: that issue is not a dead issue in as much as, through the auspices of my office, I am quite happy to continue to promote that point of view from the hon. member direct to the boardroom at Barclays PLC.

Can I say that I am very pleased to see this piece of legislation before us, because I think it shows a certain amount of confidence in the Island in two important areas: we know the Island is well regulated, and I think we also know now that it is a *competitive*, well-regulated jurisdiction, and that is why this piece of legislation is before us today. I think it is a good testament to the Island in the way that we conduct our affairs. The Isle of Man tries to demonstrate that we are a good platform for business, helpful to business efficiency, and this is what this Bill is about: it is promoting the issue of bringing different companies together, under one banner, to form a single company. I can say that I am very pleased to see it before us today, and it has certainly got my wholehearted support, Mr Speaker.

The Speaker: Hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I am quite happy to allow hoops to be jumped through today as far as this piece of legislation is concerned, simply because I believe that what we have to do is go for quality and not quantity. And I think that the hon. member for Peel is quite right in what she is saying: she is on about the zero unemployment - even though I do not know whether that is strictly true if we go looking for it - as well as the usual statement about us being a high-wage economy. It is for some, but not for all. I think that the important fact on which I would agree with the hon. member for Peel is that we do not want business for business' sake, but I believe that, in this case, it is something that we should applaud the former Chief Minister for; this shows that we are a quality area, and I will not be opposing this piece of legislation because of that issue of quality. I believe that the hon. member is right to inform the Chief

Minister and others that there are responsibilities for lending institutions as far as the environment and human rights are concerned, and I think that that is something that she should not be afraid to say in this hon. House.

I do not believe that we have not addressed the issue that what goes through here in a decade in dirty money goes through the City of London in a day, and I think we need to highlight that issue when we have such prejudice against the Island. This piece of legislation, and bringing this organisation to the Island's shores to have its head office here, hopefully will be the light for us to be more aggressive on the operators within the Island who are abusing the good nature of the Island. I see this piece of legislation hopefully helping us in our resolve when we have to grow up and start realising that this *is* the mainland and not the United Kingdom, and that the United Kingdom will sell us short every time if it comes to looking after the jobs in the City of London and not looking after this so-called 'Crown dependency', as they would call us. I believe that we have got to make sure that we encourage the likes of these institutions - the quality side - to come to the Isle of Man and I do hope that the Chief Minister will waken up as far as getting the quality instead of the quantity, is concerned and that we will see some more realism in what is happening on the Island.

I will not be opposing this, and I did not oppose the suspension of standing orders, because I believe that this is a good move on the part of the Island today. A lot of people worked hard in order to achieve this, and I see that this is an opportunity for the new Minister of the Treasury to make us more 'whiter than white' than we are, compared to our United Kingdom neighbours on one side, or on the other side the Dublin free-port - financial port - which only survives through skulduggery on the part of very astute politicians working hard within the EU. (*Interjection*) I hope it gives the confidence to the government to work harder for our more independent line for this Island, for us to protect ourselves and not expect the UK to protect us as far as this core financial sector is concerned, which must represent, in real terms, 70 or 80 per cent of the economic activity within the Island.

The Speaker: Hon. member for Ramsey, Mr Bell.

Mr Bell: Thank you, Mr Speaker. There are just two or three points I think I would like to add to what has been said so far.

First of all, I think, as I said earlier, that this is extremely good news for the Isle of Man, and it is something we should recognise and applaud as being the first major step in the reversal of a trend which has been going on now for the last two or three years. As the hon. member for Garff said earlier on, we have, in the last year or two, taken two Bills through this hon. Court to facilitate the transfer in effect, of the head office from the Isle of Man down to Jersey, moves, I think, which we were all very disappointed in at the time. This is the first fruit, I think, of the strategy that the Isle of Man Government has adopted over the last few years to reverse that trend.

It also, Mr Speaker, needs to be recognised that it very much falls in line with the strategy I outlined in the budget only a month or two ago, and that is the need now for the Isle of Man to be more selective in the type of new employment opportunities it attracts, with particular emphasis on high added value jobs, and this is precisely what the Barclays move is going to bring to the Isle of Man. We have, I think, been shaken to a little extent with the announcement from, certainly, one local bank of outsourcing and a loss of jobs locally - back-office jobs - to India, and rumours persist of others who may consider the same route. So, it is good news that we are today seeing the first signs of front-office jobs - the, if you want to call it, 'better quality' jobs - coming into the Island. The important thing in this, though, is from our point of view to ensure that as many of these new front-office jobs which are created are, in fact, available for local labour, and that, by creating front-office jobs, we do not simply import a great many more people from perhaps Jersey or Guernsey or wherever to fill these jobs. I have had discussions with the

management of Barclays to strongly emphasise that Barclays themselves need to start training up some of their current back-office employees in anticipation of the arrival, at some point in the future, of these more responsible front-office jobs, and they are very enthusiastic about that and are willing to do their best to ensure that our local people get the best possible opportunities within this new arrangement. And by achieving that, hon. members, it also achieves what I think everybody in this hon. Court has been hoping for, and that is: taking the pressure off immigration, taking the pressure off the need to bring more and more people into the Isle of Man to feed these new posts. So, I think the whole approach of Barclays on this has been eminently responsible; it is very good news for the Isle of Man and hopefully it will be very good news for the employees as well.

The point that the hon. member for Peel makes, is I think, Mr Speaker something we should take note of: the need for ethical investment. It is something which, I think, is coming more and more to the fore these days; we read frequently comments in the press where various companies are being attacked for their, as I say, unethical investments and the damage they are doing to the environment or to Third World countries in this chase for higher and higher profits. I think, though, there have been enough indications from Barclays over the last few weeks, and indeed even over the weekend I saw an article in one of the broadsheets whereby Barclays have, in fact, reviewed this approach and are now approaching investment in a far more responsible way. It does, though, raise the issue of ethical investment by government generally, and we should be looking at that as well, and I can give the hon. member an assurance that government investments now will be scrutinised for the same end: to ensure that we do our best by setting a lead in government and that we are investing as responsibly as we possibly can. The Isle of Man now is a mature, modern, outward-looking state, and with that comes a responsibility, as a relatively wealthy country, to take note of Third World issues and to do our best to address those issues whenever we can, either through the mechanics that she has mentioned or by bringing influence on companies such as Barclays and similar organisations to enhance the Isle of Man's international reputation in that field as well.

Mr Speaker, I would urge hon. members: please take note of the comments made by the hon. member for Malew and Santon, Mr Gelling, the mover of the Bill. This is very good news for the Isle of Man; it is a positive return on the sensible, constructive approach that the Isle of Man authorities have adopted over the last few years towards international issues and developing our tax strategy, and I am sure in the not-too-distant future the Isle of Man will start to benefit greatly from this move.

The Speaker: I call on the hon. member for Malew and Santon to reply.

Mr Gelling: Yes, thank you, Mr Speaker. Basically, I think if I can take the contributions members made, and certainly the contribution of Mrs Hannan, the member from Peel. As she said, she raised this at our briefing, and Barclays responded very, very quickly, because they had written to me telling me that they had furnished Mrs Hannan with their environmental report. I think, in many ways, when you see that that report is a report of 2001, they have reacted, and I think their policy statement, which states 'We work to develop policies and practices that help preserve the physical environment, and we try to influence our business customers to do the same' shows they have got the message. And I think certainly they have got the message from the Isle of Man as well, that we welcome the bank, we welcome the business, and that helps our economy. I think I was taking two messages from the hon. member for Peel: one was that Barclays continue to do that, but also, because we are benefiting from the economy which such companies bring to our Island, we also could be, perhaps, a little more generous in our giving to the Third World as well, and I do not think that has gone unnoticed. So I think, as I said to the hon. member for Peel, the one thing when you have got the decision makers in the Island is that at least they are closer to hand, perhaps, to get the message over to them than if they were on

some other island down off the South Coast of England. I would like, otherwise, to thank her for her support.

Moving on to the Chief Minister: he said it showed confidence in the Isle of Man. I think that one of the areas that certainly pleased myself and the Treasury minister was that this, I think, is the first decision that has been made by a large concern on a totally independent consultation basis. In other words, it has not been an argument between the heads of Jersey, heads of Guernsey and heads of Isle of Man, arguing out who and where the headquarters would be; they actually asked independent people to assess the three islands, and the decision was that the Isle of Man was where they should base themselves and their front office. So that, I think, is pleasing and gives confidence to others, and I am sure there are others now that were going the other way and will be looking over their shoulder, wondering whether, in fact as the hon. member for Garff has said, they have made the right decision.

So I think it has given the Isle of Man certainly a lot of credit, and that moves very nicely on to the hon. member for Onchan, Mr Karran, who was saying about quality and not quantity. Of course, if you look at the pattern of banking in the Isle of Man, we have not had an increase in banking licences; we have actually had an increase in business for those who committed themselves to this Island a number of years ago. We have a depositor protection scheme which, of course, is not in other areas; that, in many ways, deters other banks, because they realise they are joining a scheme where, if anything happened, they would have to pay out, but I think what it has done is that it has certainly given those who committed themselves to the Isle of Man a more conscious way of going out and bringing more business here and developing themselves. And, of course, I think we know those banks, and we know them exceedingly well, and certainly the quality is good.

The hon. member for Onchan also just touched on the possibility of dirty money and the regulations in London. We know that the regulations in the Isle of Man are more severe and more stringent than in the City of London, but, of course, you have to look at the reality and the reality is that the spotlight is not on London; the spotlight is on the offshore jurisdictions. We have to respond to that; even if it is only perceived, we have to address that situation. So therefore I think that the Isle of Man has now got into a situation where they are respected worldwide because they are looked upon as a well-regulated and top-drawer jurisdiction, and I think that is becoming more and more the case as you find people coming in from other parts of the world to the Isle of Man.

I thank the Treasury minister for his support, and I think, again, one thing worth mentioning is that the spotlight at the moment is on Jersey: the Chancellor of the UK has taken action out of sheer frustration because Jersey would not co-operate in even discussions around certain elements of money laundering and so on, with the result that he has taken out the reserved powers, he says, against Jersey. But I think we should be a little angry about that, because the fact is he has reserved powers and he is going to react to Jersey, but nevertheless it could turn on us. So that, in many ways, has been a bad way in which it has been generated, and because they would not co-operate, he has taken out the reserve powers, so we have to be very, very careful to watch that one. Again, I think, credit to the fact that we got off the blacklist; we co-operated with them without signing up to anything at all, unless it is an international standard. We have co-operated and we have been round the table, and I think they have appreciated that.

Just touching on the article that the Treasury minister mentioned was in the newspaper: I think that would probably come from the report of the environmental strategy that they have. If members are interested, I can actually copy that to hon. members, with further briefing notes, before the clauses stage, which is on 14th May; we have a fortnight now between the second reading and the clauses stage, so if there is anything whatsoever that hon. members perhaps

think of later, please do not hesitate to get in touch, but I will circulate that environmental report to hon. members.

With that, Mr Speaker, I can only say thank you to all hon. members for what I take to be their support, and I am quite sure, with it being a private Bill, that Barclays will be reassured by the support from the House for the second reading, sir. I beg to move.

The Speaker: Hon. members, I put before the House that the Barclays Bank Private Clients International Bill be read a second time. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Data Protection Bill — Second Reading Approved

The Speaker: Hon. members, we move on to Item 7.2. the Data Protection Bill, and I call on the hon. member for Ramsey, Mr Bell.

Mr Bell: Thank you, Mr Speaker. Hon. members may be aware that concern has been felt for many years about the danger to individuals arising from the quantity of information about them which is in the possession of the state and commercial entities, and this concern increased in the 1960s and 1970s, when such information came to be held on computers. A major step was taken in 1981, when the Council of Europe agreed on a convention for the protection of individuals with regard to automatic processing of personal data. The United Kingdom Parliament passed an Act in 1984 which implemented the provisions of this convention, and the Isle of Man followed suit with its Data Protection Act of 1986. The 1986 Act imposes obligations on data users to comply with certain data protection principles, requires them to register with the Isle of Man Data Protection Registrar, office created by that Act, and gives individuals various rights in respect of data that are held about them.

The European Community, in 1995, decided to impose on member states obligations wider than those of the convention. Directive 95/46EC on the protection of individuals with regard to the processing of personal data, and on the free movement of such data, was implemented in the United Kingdom by the Data Protection Act of 1998, which came into force on 1st March 2000. The data protection directive is not binding on the Isle of Man but affects the Island and other third countries in as much as the transfer of personal data from a member state to a third country is restricted, unless the latter ensures an adequate level of protection for individuals. In order to give such protection in the Isle of Man and thus to permit the free movement of personal data between data controllers, in particular the financial institutions, in member states and the Island, the Bill adopts a scheme of control very similar to that operating in the United Kingdom under the 1998 Act.

This Bill extends the régime created by the Data Protection Act of 1986, which it replaces. In particular, the Bill applies to certain structured manual records which are not covered by the 1986 Act, as well as computerised personal data. It introduces conditions which must be satisfied if personal data are to be processed, with additional conditions for sensitive data; strengthens individuals' existing rights and creates some new ones, for example the new express right to be told who is processing data and why, and to prevent personal data being used for direct marketing; brings within its scope existing access rights created by the Access to Health Records and Reports Act of 1993; renames the registrar the Isle of Man Data Protection Supervisor; replaces registration with new arrangements for notifying the supervisor; and introduces new rules for the transfer of personal data to other countries. There are transitional exemptions for manual data in existence when the Bill comes into force: these data are exempt from most of the data protection principles until 21st October 2007, but the data subject is given certain rights, for example to require the data controller to correct inaccurate data.

Mr Speaker, essentially there are two objectives of this Bill: one is to implement the EU data directive and bring data protection in the Island up to European standards, primarily to

assist the finance industry, and secondly, to address the concerns of small business, charities and voluntary organisations. Mr Speaker, I beg to move.

Mr Gelling: I beg to second and reserve my remarks, Mr Speaker.

The Speaker: Hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, there are only two concerns I have with this Bill: one is accountability as far as the setting up of the registrar is concerned, and the other issue that I am concerned about with this Bill - and I appreciate and thank the mover of the Bill for getting the individuals to send us a more detailed presentation as we were unable to attend - is actually the flexibility and the ability to transfer information via other jurisdictions, and the actual issue of confidentiality and principle for the individual against the large institutions of the state. I would like the mover of the Bill to just tell us what he intends to do to make the Data Protection Registrar more accountable. What I am concerned about is that I see far too many of these quangos being set up that are not accountable to anybody.

The other issue I am concerned about, Vainstyr Loayreyder - as you are supposed to look after our rights as members of this hon. House, and you would not want to see what we said, when we brought the ministerial government into being, about nodding dogs in this hon. House - is that I have tried four times to get hold of one particular legal draftsman in the AG's department. I think it is important that these Bills get proper scrutiny from members of parliament, even if they have got the sanction of the executive, and I do think that you need to address the issue of whether we should have our own legal draftsman in the Precincts of Tynwald, away from the executive, to leave them with their priorities. Obviously, their priority is as the executive and the foreign Crown to do what they want, whilst we can get on with our job as far as the House is concerned. It will do this House and its credibility no good if we cannot get hold of the staff. I am not so much criticising in this particular case, but in the next Bill and the following Bill, I am very concerned, and I would hope the mover can do something about that.

The Speaker: Hon. member for Ayre, Mr Quine.

Mr Quine: Yes. I am perfectly happy to support this Bill, sir. We had a very good briefing, of course, the other day from the law draftsman and the registrar herself, which was very, very helpful. I think if there was one issue which there was some unease about it is the extent to which this Bill would be able to help us in restricting access to personal particulars for the distribution of junk mail; this is a matter which I find, speaking outside, is a real irritant. I appreciate, of course, that there are probably two aspects to this: there is the question of access to personal particulars -

A Member: It makes a profit for the Post Office. *(Laughter)*.

Mr Quine: I am not speaking for the Post Office. *(Laughter)* There is the matter of personal details that are held on files here on the Island, and access to those for the distribution of this junk mail, and then perhaps the larger part of that is, of course, the position in relation to access through the United Kingdom, where they have access to lists in the United Kingdom which have Isle of Man residents' particulars on. I am just wondering if the minister could, for the sake of clarity, explain to us to what extent this Bill will help us to address that irritant. I find it is an irritant: you go home, you get a handful of letters and you find that a quarter of them are somebody trying to put a waterproofing coat on the outside of your house. *(Laughter and interjections)* Unsolicited, completely unsolicited. If this Bill is going through - and I fully understand that the issue of extraterritorial jurisdiction comes into this, because we cannot control what happens in another place - I think it would be opportune if the minister could focus on this particular issue for the sake of clarity and for the sake of a better understanding, perhaps, outside of this chamber.

The Speaker: Hon. member for Ramsey, Mr Bell, to reply.

Mr Bell: Thank you, Mr Speaker. If I could do it in reverse order, I can tell the hon. member that I also get the junk mail about getting my house painted, but the most regular one is for hearing aids, so I do not know whether someone is trying to tell me something. *(Laughter and interjections)*

A Member: I keep getting that one. *(Laughter and interjections)*

A Member: Edgar sends that one to you.

Mr Bell: Mr Speaker, there are really only two or three points, I think, which hon. members have made. The hon. member Mr Karran questions first of all the accountability in setting up the registrar's section. The registrar has, of course, been in place now since 1986, and the proposal in this Bill really is that there will be no actual change except the registrar will now be known as the supervisor, which is to reflect the slightly extended role that the individual will now play in overseeing the protection of the individual as far as data transfer is concerned. Likewise, the accountability extends as it does now in effect: it does provide an appeal against the registrar's - or the supervisor's - decisions; there will be a data protection tribunal, as there is now; and, of course, ultimately, on a point of law, an appeal can go to the High Court. So there are a number of mechanisms, I think, in place to enable an assurance to be given that the Data Protection Supervisor will deal with any complaints fairly and adequately.

The flexibility and confidentiality over cross-border transfers: again, there are a number of measures in this Bill which will enhance that, but largely there will be very little change from what takes place presently. If this Bill is passed, it will enable the Isle of Man's legislation to be deemed adequate in the eyes of the European Union directive, which then will remove any barriers which may possibly be imposed at some future point, particularly within the finance industry, where, obviously, regular transfer of information is important for those entities to function effectively.

The hon. member also makes, I think, a regular point that he has problems getting access to the legal draftsman, and that it is obviously important that Bills get proper scrutiny. I cannot speak, Mr Speaker, about his particular problems as regards the legal draftsman, but I would urge the hon. member, if he still has concerns about this particular Bill, either to come and see myself or my officers in Treasury, or indeed to go and see the registrar direct, as I am sure we would be able to answer any concerns that the hon. member has. And indeed, if the hon. member has problems contacting the registrar, if he could let me know and I will make sure that a meeting is set up for him to have his concerns addressed.

I thank Mr Quine, the hon. member for Ayre, for his support. As he said, we did give a fairly comprehensive presentation to members, and I thank those members who did take the time to turn up. I think it was very helpful for everyone there; it explained most of the issues. But the hon. member just makes the one point about restricting access for junk mail, and I think this is probably one of the most frequent complaints that there is, and I think there are very few people who do not get harassed with this from time to time. I think one of the major sources of information which triggers the issue of junk mail initiates with the voters' lists, and as a result of this Bill, when it goes through, the voters' lists - which, of course, will be drawn up in the normal way in future - will actually also include an opt-out for individuals, so that, in effect, once the voters' list is drawn up, there will be two versions of it: there will be one which is a full version for elections, which will be available in the normal way, and there will be a second one, which will be probably a much shortened one and which excludes all those names who have applied to opt out from having their names circulated to organisations that specialise in junk mail. So I think that will be a major step forward (**A Member:** Hear, hear.) which will go some way to help that.

Mr Speaker, that, I think, answers the questions, so I beg to move.

The Speaker: Hon. members, before you is item 7.2, that Data Protection Bill be now read a second time. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Matrimonial Proceedings Bill — Second Reading Approved

The Speaker: Hon. members, we move on to item 7.3 now, and I call on the hon. member for Douglas East, Mrs Cannell. The Matrimonial Proceedings Bill.

Mrs Cannell: Thank you, Mr Speaker. For the last 120 years, Manx law on matrimonial proceedings and property has largely been based on that of England and Wales. Any English reforms during this period took a long time to be adopted in the Isle of Man: for example, the principle of equality between husband and wife with respect to the ownership of property was adopted in England in 1881, whereas the same was only adopted here in 1921, some 40 years' gap. In addition, the English civil courts were empowered to terminate a marriage by divorce in 1857, but it was not until 1937 that the Isle of Man civil courts were empowered with the same, some 80 years later. However, during the last 40 years, changes in law in England and Wales have generally been adopted within five years or so. This has not been a consistent policy on the part of the Isle of Man Government, but rather a general and recurrent feeling that social conditions in the Island are so like those in England that any differences in social legislation between the two jurisdictions need to be removed.

The existing legislation on matrimonial proceedings in the Island is largely comprised in the following major Acts: the Married Women's Property, Dower and Widowright Act 1921, which deals with equality as respects property rights; the Judicature (Matrimonial Causes) Act 1976, which deals with divorce and annulment; the Matrimonial Homes Act 1971, which deals with the occupation of matrimonial homes; the Domestic Proceedings Act 1983, which deals with claims for maintenance during marriage; and the Matrimonial Proceedings Act 2001, which provides for claims for maintenance, et cetera, following divorce or annulment, including overseas divorce. That is the present situation in the Isle of Man.

A proposal to consolidate these Acts with numerous amending Acts has been on the table since 1988; however, the Law Commission, in 1991, made a recommendation to reform the grounds and procedures for divorce, and the proposal to consolidate was shelved pending the enactment and implementation of any changes in England and Wales and a review of their operation there. The reform recommended by the Law Commission was enacted there in 1996 but not brought into force, and in 2001 the United Kingdom Government announced that it would be abandoned. In the meantime, a more limited consolidation was brought forward and ably taken through the House of Keys by the hon. member for Peel, Mrs Hannan, in the Matrimonial Proceedings Act 2001, which re-enacted, in a single measure, the heavily-amended legislation relating to financial claims in the High Court, with new provisions relating to pension sharing and the reciprocal recognition of United Kingdom orders.

With the abandonment of the United Kingdom 1996 reforms, the way is now clear to consolidate all the existing legislation on matrimonial proceedings and property. This Bill before hon. members, Mr Speaker, therefore re-enacts all the previously mentioned Acts that I referred to, including the latest Act, which is the 2001 consolidation, into a single measure, with one major set of reforms and a few minor changes of substance.

The major part is in part 4 of the Bill, which contains a new code relating to domestic violence and the matrimonial home, replacing the Matrimonial Homes Act 1971 and various provisions relating to domestic violence, and which is based on part of the Family Law Act 1996 of Parliament, which was in turn based on a Law Commission report entitled 'Domestic Violence and the Family Home.' This new provision is intended to secure greater consistency and effectiveness in providing measures against violent spouses. Unmarried partners have no

matrimonial home rights, however, but provision is made in the Bill for an occupation order for a limited period, so the Bill actually recognises those who have a marriage and, of course, those who have never had a lawful marriage but have co-habited.

The minor changes I referred to are contained within certain clauses in part 7 of the Bill, and they are intended to remove the few remaining inequalities in the treatment of husbands and wives as respects property. In addition, there are also a few changes in name, designed to modernise the language of the law in this field, in terms of 'petition', 'decree nisi' and 'decree absolute', which the Bill seeks to replace as follows: 'order' instead of 'petition'; 'provisional order' instead of 'decree nisi'; and 'final order' instead of 'decree absolute'.

Mr Speaker, I hope hon. members will support the second reading of a Bill which mostly deals with putting together and consolidating all existing legislation which has previously been passed by hon. members in this House. But it also seeks to improve upon that existing legislation, particularly in the clauses in respect of domestic violence, which unfortunately is an aspect of life here and elsewhere today; this seeks to bring in a more fair balance in respect of that. I hope members will support the second reading, and I look forward to any comments that are made, and I will do my very best to answer. I beg to move, Mr Speaker.

The Speaker: Hon. member for Rushen, Mr Gill. No? Hon. member for Peel, Mrs Hannan.

Mrs Hannan: Yes, I will second the legislation, Vainstyr Loayreyder. There is a lot to discuss during the clauses stage, but I will support it in the second reading.

The mover mentioned the Matrimonial Proceedings Act 2001, and the whole of the Act is now to be repealed and contained in this Act, but I just wonder why it was necessary to pass the Matrimonial Proceedings Act only a very short time ago and then repeal it and include it in this particular Act; I would have thought that the actual expense of not only publishing it but also taking up very valuable end-of-session legislative time, when it could all have been brought together in this Bill now, presumably even sooner than it was, does not seem terribly helpful. I have no problem with supporting this through now; my concern is what was done before with bringing a piece of legislation that has only just been enacted but is now to be repealed within this. Maybe the Chief Minister, when he is commenting, could elucidate and facilitate us with that information. Thank you, Vainstyr Loayreyder.

The Speaker: Hon. member for Rushen, Mr Gill.

Mr Gill: Vainstyr Loayreyder, thank you. I rise to speak on this matter and would say that I have a number of matters which I wish to raise. I had intended proposing a number of concerns more fully than I have the facility to do today, but yesterday Mrs Cannell advised me that she did not intend proceeding with this today and would attempt to defer it, and I regret that she did not have the courtesy to advise me that she had changed her plans at the last minute. And so it has left me at a bit of a loose end.

However, I would like to speak on the matter, Mr Speaker, and, as I say, I welcome the Bill as a consolidation of existing legislation relating to the very important area of marriage and long-term relationships. In the Isle of Man, the number of divorces registered at the General Registry remains worryingly high; similarly, the number of cases heard by family courts concerning financial provision for separating couples with non-marital children has increased significantly over the past few years. This is a worrying trend which has serious implications for all of our community. Divorce and separation are sad facts of life, and there is no law which can create or maintain a happy marriage or relationship, but I am sure I am not alone in wanting to support marriage and family life as institutions which, I imagine, most members of this House will support. I would want to do everything that we can to turn the tide of the increasing number of divorces; greater funding for marital agencies may actually cut down government expenditure, as well as reducing the emotional cost of separation and divorce for the families involved.

As I have said, there is no law which can create happy marriages, but what the law can do is: offer the best opportunities for couples who are contemplating divorce to consider whether their marriage is, in fact, at an end; enable couples who decide to divorce to reach agreement about the division of assets and arrangements for their children; and, if appropriate, reconstruct a relationship, based on the continuing obligations of parenting. I know that divorce is never easy; for most people it is a painful personal decision. Divorce has an impact similar to that of bereavement, with a sense of loss which causes profound grief. Couples going through divorce often privately acknowledge joint responsibility for their problems, but they then face: a lack of information about the help that is available to them at this time; a lack of information about the foreseeable consequences of divorce, such as the practical and emotional consequences for themselves and the children involved; a delay in obtaining help from agencies equipped to assist couples whose relationships are in difficulties; an adversarial legal system which encourages them to exchange recriminations rather than accept mutual responsibility; the use of separate advocates who encourage each partner to obtain the settlement most advantageous to them - because these arrangements can be long drawn-out and often continue well past the granting of a divorce, the period of potential conflict is thus extended; and the option of fast-track divorce, which speeds through the process on the basis of fault, usually taking six months or less - couples may exaggerate fault and apportion blame where none exists, solely to obtain a quicker divorce.

In regard to this final point, in my professional experience as a family court welfare officer and as trustee of Relate - and I am not alone in supporting that charity within this House - I would say that there is a most distasteful practice being engaged in more and more in contested divorces and separations involving children: this is the practice of making malicious or unsubstantiated allegations of abuse against a former partner in order to gain some advantage. Not only is this behaviour unconscionable, it is also contrary to the guiding principle in family law that the welfare of the minor should be the court's paramount consideration. (**A Member:** Hear, hear.) It should also be the paramount consideration of the parents, I would contend, Mr Speaker. Presently, an aggrieved party has very limited remedy when subjected to such false or unsubstantiated allegations, and I contend that this is clearly unfair. I would advise the House that I will be seeking to introduce an amendment to add a clause, which is clause 61, to require a court to consider unfavourably against anyone acting in such a manner. (**Mr Houghton:** Hear, hear.)

The next point I will come to is the issue of reconciliation, mentioned on a number of occasions in this Bill. I firmly support the principle of mediation or reconciliation; prior to this, however, I would seek clarification from the mover of certain issues relating to who will provide the reconciliation service, what qualifications they will be required to hold, what timescale is intended, and whether there will be a period of reflection.

Finally, the issue of domestic violence: I would support the provisions generally and would seek advice about how the mover proposes these orders will be enforced.

As I say, Mr Speaker, I had intended speaking more fully and I regret the communication breakdown between the mover and myself, but I hope that the points that I have made will be accepted by the mover and will be answered fully at the next stage. Thank you, Mr Speaker.

The Speaker: Before I move on, I would just clarify that the hon. mover of the Bill had indicated yesterday that it was likely that she would not, and it was her intention not to, move this Bill today due to family circumstances. I would advise that this morning the member was able to continue to proceed, and I agreed that she should proceed, with the second reading.

I call on the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, an awful lot of my concerns with this Bill, I think, have actually been raised by the previous speaker. What I do feel is that this piece of legislation is about one of the cornerstones of our society, and that is the home, and I believe that maybe the issue is that we should be sending this Bill to a committee to investigate many of the issues; we have got somebody who has been on the coalface in the previous member here. I can say that, yes, I can take a certain amount of pride in some of the non-achievements of some of us over the years as far as the issues that affect primarily this piece of legislation are concerned. I think back to how it was when I first got in and battling to try and make it possible to be able to deal with a violent partner: there was no legal requirement for such individuals to be able to be restrained from turning people's lives into absolute terror. Today we have a situation where we have a women's refuge. Or from the days when we first went - it was one of the few times when it was an advantage to be a bachelor - with Relate, we had the farcical situation where they were getting £250 a year in state support. Most of the members of the then DHSS were sliding down in their seats, under the table, because there was a certain amount of guilt by association, which hopefully is a little less prevalent today for the people. I think it is something that we have to recognise: the importance of trying to save relationships.

I wondered whether the hon. mover would consider whether we should actually have some sort of committee to investigate this legislation, to give such organisations as Relate the women's refuge and other organisations. . . Whether there should be more of a statutory obligation. I can remember fighting with people in this House about domestic violence and there being no such thing as domestic violence, but I saw it as a child - not directly in my family, but I do know of other families and of the partnerships of other members in this hon. House. So it affects all walks of life, and I just think that maybe we should be considering whether we should have a select committee to investigate this piece of primary legislation. I would be interested to know, if there has been any input from the likes of these other organisations, because I do think that this piece of legislation is so important. Yes, I appreciate that a large percentage of children are born outside any stable or recognisable partnership or relationship - which is a great sadness, in my opinion, but a fact of life - but I do feel that, in the case of this piece of legislation, it is so important. We have heard so much from certain members about children in care, but what we need to know is how these individuals end up in care in many cases, and whether we have a strong enough legislative and social framework to try and cut down on the break-up of relationships. I do feel that maybe we should have a select committee to investigate this piece of legislation, and I believe that it would be at the clauses stage of the Bill that we would put it to a select committee; is that not right, Vainstyr Loayreyder?

The Speaker: No, a member can move that a matter goes to a committee of the House straight after second reading or at any future clauses of the Bill.

Mr Karran: Okay, Vainstyr Loayreyder. I think that clarifies the point for other hon. members.

The other issue that I want to bring out is that I would like some clarity over rights as far as pensions are concerned. I think it is important; my mother worked hard in the home to look after six of us, and I believe that that is an important part of a working career. I would like to know from the mover whether the pensions facility recognises the contribution of either the wife or the house-husband who stays at home and provides this vital service to society by doing the work to keep a home together for children; what are the pension rights as far as that is concerned? I also would like to say that I feel that I would like to know what the mover's viewpoint is, because I do not see any real new initiatives in here to get that level playing-field.

I think the previous speaker spoke of the insanity that we have when we see some relationships collapse around their ears, and the logic flies out of the window and the children are used as a weapon (**A Member:** Hear, hear.), which often has many psychological effects years later on those children when they reach adulthood. And have we looked at other

jurisdictions like the Scandinavians to try and get a less adversarial viewpoint? We have heard from the previous member about the wickedness of trying to accuse one or other party to the relationship of sexual abuse to try and get a better financial deal out of it or to get back at them for adultery or whatever. I do feel that I would like to know whether Scandinavia and other places have been looked at as far as these sorts of issues are concerned, so we can get back to reality - back to sanity - and not have the situation which I am sure that many of us face when we are dealing with constituents and friends, when you are trying to get them back off the situation of a war footing. So, I would welcome the likes of the proposal from the hon. member that there should be some sort of liability on false accusations as far as child abuse is concerned; they are serious accusations that can have a mark on families for generations. I would say that I would like to see what the hon. mover feels.

The other idea which I totally support is that of the hon. member for Rushen: trying to get away from two warring, well-paid advocates who just pull it out for as long as they can, almost like a game of poker, instead of trying to maximise the ability to heal in a situation of this sort of human tragedy. I do feel that, if such a select committee was put together, maybe we could see what happens in some of these other places. We have the absurdity where we have the situation with justice: you either have to be very rich or very poor. I know from friends of mine that they just gave up fighting for access in the end, because they were entitled to legal aid but their former partner, lover, wife or vice versa was able to use the legal aid system.

I do think that this piece of legislation should not be allowed to be nodded through; it should be looked at as an opportunity. I do hope that members will look at maybe setting up some sort of select committee and getting agencies from outside this hon. House, who are at the coalface as far as this is concerned, to give their input, Vainstyr Loayreyder, and I just wondered whether the mover has any observations as far as that is concerned.

The Speaker: Hon. member for Douglas East, Mrs Cannell, to reply.

Mrs Cannell: Thank you, Mr Speaker. I thank those hon. members who have got to their feet this morning to make a contribution to the second reading of the Bill.

My sincere thanks to Mrs Hannan for getting to her feet to second the Bill, and I shall be relying upon her during clauses to point me in the right direction if she feels that perhaps I stray, with her previous experience in respect of similar legislation. In answer to her question, though, it is a very good question to be asked, and clearly I do not have the answer for her; I have no idea why the Council of Ministers should promote this Bill so soon on the heels of the previous, which, as the hon. member referred to, was taken through and put in force from 2001, which was only a year ago. But I will enquire as to the reasons for coming forward now with this particular Bill, which, of course, includes the Bill that the hon. member took through, and I will get back to her as soon as I possibly can on that one.

With respect to the contribution made and the concerns expressed by the hon. member for Rushen, I can merely apologise. I am somewhat distracted, have been distracted, for the best part of a week, due to a grave family illness, and Mr Speaker has given me a lot of latitude today and I am grateful to him for that. I can only apologise but, in so doing, point out, as someone who has also been new to this House, in 1996: it is always best to be prepared; if you think something is going to come up, bring your papers with you or leave them very close by. Equally, the hon. member said to me that he did have concerns and that he would also let me have some information, which I unfortunately have not had time to accept or consider from him this morning; so, my apologies. Courtesy had nothing to do with it; I merely was distracted this morning.

Obviously, the hon. member for Rushen has a lot of experience at the sharp end (**A Member:** Hear, hear.) of matrimonial proceedings, in dealing with divorce, and unfortunately it is

very rare to have a divorce that reaches some kind of amicable settlement. Most - 99.9 per cent of them - are acrimonious, and that is unfortunate, but that is the nature of the procedure that couples find themselves faced with from time to time. Clearly, divorce in the Isle of Man is not an easy thing to obtain, and history has assisted us there. There is no such thing in the Isle of Man as a quick divorce, and I think this legislation proves that, with the amount of separate pieces of legislation we have had to deal with the various aspects. This type of legislation, in my view, because it is dealing with the breakdown of marriage and the break-up of family, is dealing with human beings and human nature; it will, from time to time, still require further amendment, I would suggest, to move with the times and expectations.

I was not aware that agencies that are established to deal with such breakdowns - marital agencies - do not receive adequate funding. The Bill unfortunately does not refer to a marital agency as such in terms of the provisions laid down for reconciliation, for instance, but what it does do is provide the Department of Health and Social Security with the power - or the discretion, if you like - to refer a couple, or a partner from a couple, to seek advice and to take some form of counselling. It is non-specific in the legislation - it does not specify social worker, specialist or someone from a marital agency - but it does give a department. Whereas previously it came under the probation service, it now moves from that to the Department of Health and Social Security to arrange that mediation, which I agree is essential, because if you can turn a relationship around to one which is united again, particularly if children are involved, then it is worth considering doing.

Lack of information on divorce: again, because divorce is not easy to obtain in the Isle of Man, it is not really something that we ought to be, in my view, publicising a great deal, but I agree that there should be some form of booklet, perhaps, available through the Department of Health and Social Security, possibly, with simple information for anybody who feels that they need to seek a divorce. Obviously, publicised in that, I would suggest, would be the services that are available in terms of trying to come to some kind of reconciliation to turn the relationship around.

The welfare of the minors must have the courts' consideration. I believe that it is reaffirmed all the way through this legislation that the courts must put the considerations of a minor first and foremost before anything else, and there is, in fact, great provision for doing that. There is also a great deal more flexibility in terms of the court's discretion in dealing with the effects on a child or a young person, particularly where domestic violence is brought in and where there is a violent atmosphere. So there is greater protection. There also is, of course, a lot of protection contained within the Young Person and Children's Act, and I believe that when we consider clauses, Mr Speaker, there might be some amendments coming in respect of that, possibly, but of course this consolidates part of those considerations as well.

I welcome the input from the hon. member for Rushen, Mr Gill, because, as I said before, clearly he has been faced with the sharp end, and regarding anything that he is concerned about, I would tell him that my door is open to him, as he already knows it is open to him anyway, but if there is any (*Interjection and laughter*). . . Not my back door; my front door is open to the hon. member in this place -

Mr Quine: He will be dropping in for lunch soon.

Mrs Cannell: - but if he has concerns - and I have already spoken with him briefly - and he is wishing to look at an amendment, I will consider it, and provided he does take advice from the legal draftsman and can come up with an appropriate form of words which will satisfy him and hon. members, then I am quite open in terms of considering that.

Turning to the hon. member for Onchan, Mr Karran, of course he went into the heartbreak side of this legislation, and the last course of action, I would suggest, that any sensible couple

would take, is to seek divorce, because, as I said to you earlier, it is not an easy thing to do. He spoke about domestic violence, and one of the main reasons why I felt that I ought to take the Bill through was because it does provide greater power here for dealing with issues in terms of domestic violence and the property, the matrimonial home. Whether it is a privately-owned home, whether it is a rented property, or whether it is a local authority home, it does provide flexibility in terms of exclusion. It also considers the young person in all of this, the child and the young person being from 16 years of age up to 18.

Yes, I agree with him: the Isle of Man generally is poor in providing places such as refuges. I, too, have visited a great many in the last 20 years in the Isle of Man and met with people there and spoken to young battered mothers, and it is one of those things, those social breakdowns, that I think we want to hide away for all sorts of reasons. They are very low key and they are very low key, for a reason, because if there is a violent partner who is seeking his or her spouse, then if they know where it is they are going to be hassling that place all of the time, giving grief not only to the partner who has left him or her, but also causing a lot of unhappiness and distress to other families who might have young children in the refuge. So they are low key on purpose. Perhaps we do not have enough of them. Perhaps we should consider in the future some kind of statutory provision. I say 'perhaps' because I am not too sure; I would need to look at the arguments for and against on that aspect of things. I do not believe, though, that this legislation is the place to consider that, but perhaps we should be focusing a little bit more there.

There are powers that the Isle of Man enjoys at the moment, enabling the police to deal with issues of domestic violence. The police have all sorts of powers to intervene, to separate, to safeguard the child, et cetera, et cetera, et cetera, but it is one of those areas where the police can get called out a dozen times or more in the Isle of Man to deal with a domestic situation and they have to make a judgement call when they go to that home as to whether or not they should act under the powers that they have. Perhaps they do not act enough as we would like, or perhaps they do, but again, that aspect has been fairly low key; it is not talked about very much in the annual report from the police either. Perhaps it is something we can look at.

As regards clarifying the pension rights, I would have thought the hon. member for Onchan would have been fully *au fait* with pension rights, as that aspect of the legislation was being taken through only a year ago and as he was a former member of the Department of Health and Social Services, but my understanding in respect of pension rights is that a husband or a wife can claim part of the other's, even after divorce or separation. Equally, within this Bill there are clauses, which have formed part of previous legislation, that also give the courts the power and the discretion to force the sale of a house, if you like, for settlement, or for orders to be made if there is a need there. Again, there is all sorts of flexibility.

Most of this legislation is already in being; it is already here. Hon. members, some of whom have been here a much longer length of time than I, have had ample time and will have considered that legislation during its passage and, I would have thought, would be fairly familiar with it. There are very few new provisions, and the new provisions are in terms of providing greater help, if you like, to deal with domestic violence issues and property; the other minor amendments are just changing the terminology in law to bring it more up-to-date and make it more modern. I have to say, Mr Speaker, that I do not believe that this legislation should be referred to a select committee. If it was all new legislation, I might be inclined to agree with the hon. member, but it is not new legislation; there is a very small part that is new. Now, if the hon. member feels that that is so fundamental and that part of it itself ought to be referred to a select committee, again I would not agree with him, because I think it is fairly simple what those provisions are. Any member in this hon. place can move an amendment to any piece of legislation whilst it is going through its readings, and that is the privilege that we all have. I would merely remind hon. members that we have a minimum now of two weeks before clauses

will come forward. A minimum of two weeks, I would suggest, because we have a session of Tynwald as well, which could lengthen the procedure. If hon. members are looking to move amendments to add strength to and to enhance the legislation, and it receives the support of the legal draftsman in being able to use the correct terminology that will not throw the Bill out of sync, then I am happy to consider it. I just want to say, Mr Speaker, thank you for giving me latitude today, and I beg to move, sir.

The Speaker: Hon. members, the matter before you is that the Matrimonial Proceedings Bill be now read a second time. All those in favour say aye; against, no. The ayes have it. The ayes have it. Hon. member for Rushen, Mr Gill.

Mr Gill: Thank you, Mr Speaker. I rise out of concern, really, that there has been a lack of consultation in this process, and perhaps as a consequence of that there have been some comments made which, in my opinion, are factually incorrect. Having checked that with the relevant ministers, I am even more concerned about that, and on that basis I would rise to move:

That the Matrimonial Proceedings Bill be referred to a committee of three members.

The Speaker: Hon. members, you have a motion before you, subject to it being seconded. Do I have a seconder?

Mr Karran: Vainstyr Loayreyder, I would be happy to second the hon. member for Rushen. I would also be happy to see if there could be some consultation with the Council of Ministers before the clauses stage comes along. Whether it should be three members or should be five members is another issue, but I do feel that this piece of legislation is a glorious opportunity to look at something that is fundamentally important as a cornerstone of society. Now, it is primarily a piece of consolidation, but I do feel that if it does not pass this time to go to a select committee at this sitting, the issue should be debated before the clauses of the Bill are debated in this hon. House, and we will have somebody from the Council of Ministers to explain to us if there are implications as far as -

The Speaker: Hon. member, could I just interrupt? This matter is before the House as a Bill. We now have a motion, which is for a committee of three members to be set up. Whatever is said and by whom during debate, it is a matter for everybody who is a member to take part. I am sure that the government is likely to clarify its position on this issue. I would just ask you to focus on whether or not you support a committee, and if so, I think the issue of whether or not we have a committee is pretty straightforward. Clearly, you need to expand on why you think there should be a committee, but I would ask you not to drift into who should say what, when and where. (**Several Members:** Hear, hear.) Hon. member.

Mr Karran: Vainstyr Loayreyder, I *have* seconded it, with the greatest respect -

The Speaker: I know that.

Mr Karran: - and what I wanted to do was to try and be fair to the other parties. This is an executive's Bill as far as that is concerned -

The Speaker: Hon. member, sorry; I must stop you. The Bill is before the House. It has been given its second reading. There is now a motion for whether or not it goes to a committee. Who or what is fair is irrelevant at this stage; it is a matter (**Two Members:** Hear, hear.) of whether or not the House believes the matter should go before them. I am not trying to restrict what you say, but the issue is quite straightforward. Now, hon. member, please: committee.

Mr Karran: Vainstyr Loayreyder, I am seconding this proposal. I am happy whether it goes at this stage or goes at the clauses stage as far as that is concerned, and I think this hon. House should realise how important this piece of legislation is. It is a glorious opportunity to try and get some of the anomalies addressed that we know this Bill deals with, and it will also be an opportunity for us to look further afield than the disaster zone of the United Kingdom. I think

that, for those reasons, the issue of having a select committee is something that should be supported. Whether it should be supported at this stage or when it comes back for clauses is the only issue I was concerned about. Vainstyr Loayreyder, I hope this House will debate the issue of having a select committee now as far as this is concerned, because I do think before the legislation goes any further we should know these facts.

The Speaker: Right, hon. members, we have a motion before the House which has been proposed and seconded: that the Bill be referred to a committee of three. The hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. In order to be helpful to the hon. members, I am quite happy to arrange a presentation for them. (**A Member:** Hear, hear.) We do have two weeks before clauses would reappear for consideration by hon. members anyway, and I believe that within that two-week period I can arrange for a presentation for members. Then, if there is still concern from the hon. member for Onchan and the hon. member for Rushen, we clearly have clauses, and members can always refer it to a select committee at clauses stage. But I am happy to arrange a presentation, Mr Speaker.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: Thank you, Mr Speaker. I wish to make the point that I do not think it is actually necessary for us to support the motion before us to go to a committee. Now, I say that on the basis that I do understand the concerns the hon. members from the floor have raised this morning, the hon. member for Rushen, Mr Gill, and Mr Karran, my colleague from Onchan. I think, in the time that is available to us - and the hon. mover of the Bill has said that time is on our side - that a presentation is a great idea in terms of some of the issues. That time will also allow, perhaps, a bit more consultation: if there are groups, associations, charities and interested parties in the community that feel as though they have not been consulted, then that gives us some time there as well during that process.

I would like to reiterate, though, what the mover of the Bill has said, which is that this is fundamentally a 'consolidation of legislation' Bill. Certainly the hon. member for Peel, Mrs Hannan, queried why we had a Matrimonial Proceedings Bill 2001 which is now being repealed by this Bill such a short time afterwards. Why did we go through that process? Well, I have not got a complete answer for the hon. member, but the reality is that that legislation, as written in the Matrimonial Proceedings Act 2001, forms a complete part of this consolidation Bill that is before us, so the good work that was done then is incorporated in this latest Bill. I would be a bit concerned if we started having long-term delays with regard to the legislation, and perhaps a select committee could report back quickly. Perhaps it would take a little while in relation to the major change which is in part 4, because part 4 of the Bill does right certain wrongs as far as I am concerned, and as far as government policy is concerned, with regard to the new code relating to domestic violence and the matrimonial home, and I think that is an important part of the Bill, which the mover, Mrs Cannell, has actually focused on.

So, there is time, and if the motion fails today in terms of moving to a select committee at this stage, Mr Speaker, I would ask your advice as to whether that could still be moved again before the clauses stage, with regard to the hon. member, perhaps in two or three weeks' time - whenever we come back to this Bill on this floor - still being dissatisfied with the consultation. I know the hon. member, during his contribution at the second reading, said he had certain amendments that he wished to consider towards this Bill. I think if we have not made progress and come to some harmony in the next two or three weeks, then it would be very valid for that member to move for a committee again, and perhaps the House would have a different view next time round. I hope the view today though, Mr Speaker, is that it is perhaps a little bit premature to go to a committee at this stage.

The Speaker: If I can just clarify the point that the hon. member for Onchan, Mr Corkill, has raised: if the motion before the House was defeated today, and then there was concern when the Bill came back to the House for its clauses, could it be moved again to a committee? My understanding is - and I have asked the Secretary of the House to check this - that a member could move a new motion, which would then be that clause 1 and all subsequent clauses move to a committee, but he cannot move the same motion as this morning.

Mr Corkill: But to the same effect, sir?

The Speaker: To the same effect. Mrs Hannan, the hon. member for Peel.

Mrs Hannan: Thank you, Vainstyr Loayreyder. I am alarmed to hear that this legislation has not been the subject of consultation with interested parties. I do not think any finger should be pointed at the mover of this legislation, because these Bills do come from the Council of Ministers, approved by the Council of Ministers for introduction into the House of Keys. So if it has not been the subject of consultation, I do not think that is necessarily the responsibility of the mover of the legislation (**Mr Henderson:** Hear, hear.); it is for the Council of Ministers who have not consulted -

Mr Corkill: If that is the case.

Mrs Hannan: Well, with respect, Vainstyr Loayreyder, I would have thought that the Chief Minister would have known whether the legislation had been the subject of consultation or not, and he has obviously put another finger in the cogs and stopped it, because he says 'If.' I would have thought he could have said it had been the subject of consultation. So, I am alarmed to hear that it has not been the subject of consultation, because it has not been through a department where some of us are involved, and if the Council of Ministers have not consulted, then I think there should be a consultation period. It is all very well to say that it is just a pure consolidation, but we are looking back at legislation which is from 1908, and some of that legislation, I presume, continues, because it is just one section; we also have 21, 22, 36, 50, and so it goes on, right up until last year. So, if it has not been the subject of consultation, some of it will be, because of the present-day situation; it should be commented on by the public, because this relates to the public, and I suppose more people marry than do an awful lot of other things, although some of them fall apart. But I would have no problem with what has been said here today - that it goes to a committee - and I would hope that members would support, seeing it has not been the subject of consultation.

The Speaker: I call on the hon. member for Rushen, Mr Gill, to respond.

Mr Gill: Thank you, Mr Speaker. As the Chief Minister stated, time is on our side and there is no compelling urgency to progress this legislation, and further he has undertaken to engage in a meaningful consultation process. I think the implication from his comments is that that has not occurred, and certainly from my experience as a trustee of Relate, and also from checking with the Minister of Home Affairs the transfer of functions envisaged by the mover from one department to a second - the Minister for Health and Social Security not being in the House, but judging from the reaction of her members opposite - I suspect that that has not been the subject of consultation either. So, I maintain my concerns, and I maintain my view that a select committee is the best way of addressing these concerns. And it need not be a time-consuming issue. That is for the House to consider, of course, but I do welcome the fact that at least this process has aired a number of concerns which are extremely important. So thank you, Mr Speaker, for your consideration.

The Speaker: Hon. members, if I could just clarify, before I put the motion before you, this situation as to, whether if the motion before the House were not successful, the matter could then be moved when the Bill returns to the House for its detailed consideration. The Secretary has now checked standing orders, and standing order 69 does cause us a problem, because it

does state there 'Save as otherwise provided by standing order 70, no motion may be proposed which is the same in substance as any question which, during the preceding six months, has been superseded under standing order 61 or resolved in the affirmative or negative.' Our problem is 'same in substance': of course, it would be the 'same in substance' of referring it to a committee. So, just so members are absolutely clear, that is what our standing orders refer to. It could, of course, be a matter for the House, at a later stage, to suspend that standing order, for which you would require at least 16 members to vote: standing order 70 says 'No resolution shall be rescinded except by a vote of at least 16 members and after not less than 24 hours' previous notice of the motion to rescind has been given to the House.' So, there is a way to deal with it, but it is, of course, requiring a different voting pattern.

Hon. members, I put before the House the motion in the name of the hon. member for Rushen, Mr Gill, and Mr Gill's motion is 'that the Matrimonial Proceedings Bill be referred to a committee of three members.' All those in favour say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Messrs Anderson, Quayle, Gill, Mrs Hannan and Mr Karran - 5

Against: Messrs Cannan, Quine, Rodan, Mrs Crowe, Messrs Houghton, Henderson, Duggan, Braidwood, Mrs Cannell, Messrs Downie, Shimmin, Bell, Singer, Corkill and Gelling - 15

Abstained: The Speaker

The Speaker: Hon. members, the motion before the House fails to carry, with 5 votes for and 15 votes against.

Transfer of Deemsters' Functions Bill — Second Reading Deferred

The Speaker: Now, hon. members, I have to advise that, due to the absence of the hon. member for Onchan, Mr Earnshaw, item 7.4, the Transfer of Deemsters' Functions Bill, will now not be moved and will be put onto the order paper at the next sitting.

Isle of Man Police Consultative Forum — Consideration of Report Deferred

The Speaker: I also have to advise that the hon. member for Ayre, Mr Quine, has advised me that he does not wish to move item 8.1, which is 'that the Isle of Man Police Consultative Forum Report 2001 be received.' The reason for this, as I am sure hon. members will understand, is the absence of the Minister for Home Affairs, the hon. member for Douglas East, Mr Braidwood, who will be unavailable this afternoon and is already, I think, a little bit late for departing from the House, which I have given him leave to do. The matter will therefore be put onto the order paper, if so confirmed by the hon. member for Ayre, at the next sitting of the House.

Hon. members, that now concludes the business of the House. The House will now stand adjourned until Tuesday, 7th May at 10 a.m. in our own chamber. Thank you, hon. members.

The House adjourned at 12.54 p.m.