

REPORT OF PROCEEDINGS OF THE LEGISLATIVE COUNCIL

**Douglas, Tuesday, 3rd December 2002
at 10.30 a.m.**

Present:

The President (the Hon. N Q Cringle), The Lord Bishop (the Rt Revd Noël Debroy Jones), the Attorney-General (Mr W J H Corlett QC), Hon. C M Christian, Mr D F K Delaney, Mr D J Gelling CBE, Mr J R Kniveton, Mr E G Lowey, Dr E J Mann and Mr G H Waft, with Mrs M Cullen, Clerk of the Council.

The Lord Bishop took the prayers.

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Apologies for Absence

The President: Hon. members, we have apologies this morning from the hon. member Mr Crowe. I did speak with Mr Crowe towards the end of last week. He certainly sounds much better and he hopes to be home shortly.

Ballasalla – Alleviation of Traffic Congestion – Question by Mr Lowey

The President: We turn then to our order paper and we have questions for answer.

Question 1. The hon. member (Mr Lowey) to ask a member of the Department of Transport (Mr Kniveton):

What immediate and long-term plans does your department have to alleviate traffic congestion and assist traffic flow through Ballasalla?

The President: I call on the hon. member, Mr Lowey.

Mr Lowey: Thank you, Mr President. I beg leave to ask the question standing in my name.

The President: I call on the hon. member Mr Kniveton, member of the transport department, to reply, please.

Mr Kniveton: Thank you, Mr President. Now sir, whilst I am not the member of the Department of Transport with responsibilities for the highways division, I am happy to give the department's reply to the hon. member's question.

The department has no immediate plans to alter the road through Ballasalla either by widening or introducing further traffic management. The department is presently working with the Department of Local Government and the Environment to consider a new roundabout on the A5 at Glashen, north of Ballasalla, to possibly provide a connection to their proposed new housing estate at Glashen Farm, but I do emphasise at this stage that this is purely at the talking stage and no plans have yet been finalised or submitted. Should this roundabout be developed – and, as I say, we are only talking at this stage, no plans have been submitted – then we may be able to link with the future estate roads proposed to serve any developments east of Ballasalla.

In the longer term – and I do not know how long – I have been made aware of further possible developments in Ballasalla. The department will co-operate with developers to provide roads to service any of these developments and will, most importantly, investigate the feasibility of providing alternative routes for traffic to bypass the centre of the village should such developments take place. I am sure the hon. member is aware that a new local plan is awaited,

and until such time there is, shall we say, a lanket upon us as to what can be done. There may, of course, when this has all been done, be interesting and exciting things to happen in Ballasalla.

The President: Mr Lowey.

Mr Lowey: Can I say, Mr President, how disappointed I am to hear the reply that I have received. However, would the member not agree that any development south of Ballasalla must have an impact on Ballasalla, because there is only one way they can get into Douglas and the North, which is through Ballasalla? There are 15,000 vehicle movements a day going through that main route to the airport and to the busiest industrial site on the Isle of Man as well. Would he not agree that to hear that there are no immediate or long-term plans in place or even being actively worked up at this stage is very disappointing for the people who live in Ballasalla? Is the road authority getting its priorities right?

The President: Mr Kniveton.

Mr Kniveton: Mr President, I understand fully what the hon. member is saying. There are many, many areas in the Island in exactly the same position. At this present stage we have basic plans in being to try and get over this situation. Now, we are not going to rush into something and then find that we have put in the roadway in an incorrect position. I can assure the hon. member that we do have all these things in mind and that we will be doing something about it and we will announce, but we are premature at this stage.

The President: Mr Lowey.

Mr Lowey: Would the hon. member not agree that with the proposed development of the airport, the growth of the airport, the industrial development which is going on, which is expanding, this requires not the rather *laissez-faire* approach of the department but an active approach by the department, and would he not agree with me that many, many areas of the Isle of Man do not have the main airport in them, and these industrial sites are being developed at a pace which we know demands the infrastructure to grow apace with it?

The President: Mr Kniveton.

Mr Kniveton: Again, Mr President, I understand thoroughly what the member is saying to us. He talks about the airport, of which I have responsibility myself, and I am delighted the way the airport is run, but we have now lived with that new development at the airport for two or three years. It is still going well. Our numbers are not increasing dramatically as they should, but the hon. member has referred to an industrial development, and can I say a second area of possible development at Balthane would be developed by Heritage Homes for housing if that change of plan

is approved. They already have approval for an industrial development, as I say, on the Balthane Farm; now, that could be changed over to housing, so if we rush into this industrial site we may very well find it is housing in the end. So I ask the hon. member to believe me, we are conscious of the situation, we are eager to do something, but we do not want to be premature on it.

The President: Okay.

**Water – Rate Rebate Scheme
for the Low Paid –
Question by Mr Lowey**

Question 2. The hon. member (Mr Lowey) to ask a member of the Council of Ministers (Mrs Christian):

When will a water rate rebate scheme be introduced for persons on low income?

The President: The hon. member Mr Lowey.

Mr Lowey: Thank you, Mr President. I beg leave to ask the question standing in my name.

The President: On this occasion I call on the member of the Council, Mrs Christian.

Mrs Christian: Thank you, Mr President. The issue of a water rate rebate scheme has been a topic of some debate in the Council of Ministers since the Water Authority announced its intention to increase the water rate by a significant annual amount as part of its strategic business plan. A working party comprising officers from the Treasury, the DHSS and the Water Authority was set up to identify ways in which the less well-off members of the community, including those outside the benefits system, could be helped to meet the increase in water rates, and consider who should fund any possible rebate.

This working party reported back to Council in October 2000 and Council concluded at that time that it would be inappropriate to introduce a rates rebate scheme, one of the reasons being that it would cost more to administer than the benefits which would actually be handed out. The system of income-related benefits allows for rates paid in the calculation of the support given to individuals, so for those on income support their rates are met, but of course the vast majority of households fall outside that system of benefits. But, in addition to income support, the Treasury is intending to introduce a tax credit for those on low incomes within the next year. Therefore I can confirm that there are no plans at the moment to introduce a water rates rebate scheme. However, I am able to advise that the Treasury has recently been instructed to revisit this matter in the light of recent developments emanating from DoLGE with regard to the charging for waste management. The remit of this report has yet to be finalised, but it will address again

issues relating to the charging for water, waste management and sewage services, and provide further information relating to the manner in which government contributes to overall costs.

The President: Mr Lowey.

Mr Lowey: Can I ask the minister – and it may not be quite relevant but I think it is the point I am making: lots of people are complaining about single person households who have had to pay the full rateable value on the property, whether there is only one in, and that applies to water and waste or whatever. I am led to believe that there are rebate schemes, i.e. they discount households for rates up to a third and, in most cases in the UK, by a quarter to allow for a single occupancy. Has that ever been pursued by the local authorities or central government to the knowledge of the member?

The President: Minister.

Mrs Christian: Mr President, I have no knowledge of whether or not such a rebate scheme has been pursued by local authorities in the Island. I would suspect not, but, as the hon. member will be aware, there has recently been a select committee of Tynwald looking at the issue of single householders and rate burden. I am quite sure that whatever their report recommends will be taken into account by this working group which is working on the issue as it becomes a more significant issue with the growth in the rates burden to individual households.

Mr Lowey: I thank the hon. member.

The President: Okay.

**Transfer of Deemsters' Functions Bill –
Third Reading Approved**

The President: We turn then, hon. members, to item 2 on our order paper, which is the Transfer of Deemsters' Functions Bill for third reading, and I call on the hon. member Mr Gelling.

Mr Gelling: Thank you, Mr President. In moving the third reading I think it would be fair to say that this particular Bill got a fair airing through its readings. Just to summarise, it was, of course, from the constitutional external committee of the Council of Ministers and it basically was transferring the deemsters' functions to the Treasury, basically on fixing of fees and interest rates and other financial amounts. I think the one interesting part was, of course, clause 4, which had already been amended in another place from the 8 per cent down to 4 per cent, but 'except one relating to a maintenance order' et cetera. I can report that that has been raised now in the Treasury, Treasury have taken note of it and we will obviously be exploring that particular situation, but, as

I did say in the clauses stage, it is other legislation, not this particular legislation, that would have to be amended.

So basically I do not think there was anything else that was controversial within it and I have therefore pleasure in proposing to members and moving the third reading of the Transfer of Deemsters' Functions Bill this morning, sir.

The President: Mr Kniveton.

Mr Kniveton: Yes, I beg to second, sir. I have little to add myself to what I said at earlier stages, when I said it is rather a simple Bill, a sensible Bill, one with which I can find no real problem. I can quite appreciate and agree that the Treasury should be the authority to fix fees, rates of interest and other financial matters. As I say, I have no problem supporting this Bill, more especially as I understand, Mr President, that agreement has been made via the deemsters to these transfers of functions.

The President: Hon. members, the motion I put to you then is that the Transfer of Deemsters' Functions Bill be read for a third time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Agriculture (Miscellaneous Provisions) Bill Third Reading Approved

The President: We will turn then to item 3 on the order paper, which is the Agriculture (Miscellaneous Provisions) Bill, again for third reading, this time in the hands of Mr Waft.

Mr Waft: Thank you, Mr President. During the past year the department has been made aware of certain shortcomings in this legislation, and comments have been made by the High Bailiff and Deputy High Bailiff. The Bill addresses these shortcomings. Firstly, there is an amended provision so that persons should not have or offer licensed products for sale unless there is an audit trail showing that it was obtained under authority. The new section makes it an offence to have any agricultural products for sale which have been illegally imported into the Island. A new section is added to extend the period within which certain cases can be taken. The cases will have to be progressed within six months of information about the offence coming to light. However, that can now be up to three years from the date of the actual offence.

The Bill introduces a new section into the 1996 Act conferring the power of criminal courts to order a person to be disqualified from having custody of livestock where the person is convicted of an animal welfare offence under the Act. The power of disqualification is similar to that contained in section 5 of the Cruelty to Animals Act 1997. The new section provides that the person found guilty of a welfare offence may be disqualified from keeping animals. It

also provides for an appeal procedure and an offence for keeping animals in contravention of a court disqualification. New penalties in the cases of convictions for livestock welfare offences are also inserted. The amendment provides for custody of up to six months as well as or instead of a fine.

As I previously stated, the Bill provides amendments to cover omissions, such as where a person causes suffering to animals by not feeding them or allowing medical conditions to go untreated.

Mr President, during the clauses stage of the Bill, members raised certain points which I will endeavour to answer. I think it was Mr Gelling asked, 'What is the present situation with regard to the importation and export of potatoes and vegetables?' The answer was that the Bill does not deal in any of its clauses with potatoes and vegetables; the importation of plant products is covered by the Plant Health Act and regulations made under it which deal extensively with health issues arising from plant diseases and parasites. Illegal imports can be destroyed or otherwise dealt with and the persons responsible subject to prosecution.

Regarding clause 3 and the readings of the clause, what does 'keeper' mean? Is it the owner of the farm or the person who has control of the animal's welfare? That was from the hon. Mrs Christian. The answer is, the word 'keeper' is not used in clause 3 of the Bill or in the Cruelty to Animals Act other than in the context of keeper of a pinfold. The department would seek to prosecute the persons whose cruelty was directly responsible for the suffering of an animal. This might be a person to whom the care of an animal has been delegated by the owners. The owners themselves would have a defence of due diligence provided that they had ensured that the person to whom the delegated care of an animal understood the requirements of animal husbandry and that they had no reason to think that an animal was being neglected or ill-treated.

Number 3 was, if an owner is convicted of cruelty to animals, can they then pass control over to a person with suitable skills in husbandry? – again the hon. Mrs Christian. Section 4 of the Act refers specifically to ownership. The court may order that the owner shall be deprived of the ownership of the animal. Those convicted could not own an animal even if husbandry were to be exercised by someone else on their behalf. In fact, the interpretation of 'owner' includes a person having charge of an animal, so persons convicted under section 1 would be precluded from ownership or charge of any animal under both sections 4 and 5 of the Act.

Question 4 was, what is the definition of the word 'animal' in this Bill? – Mr Gelling. The Bill deals with three separate Acts. The Agricultural Marketing Act does not define 'animal'; however, an agricultural product includes any product of agriculture or horticulture and any article of food or drink wholly or partly manufactured or derived from any such product and fleeces and the skins of animals. In the Animal Health Act 'animals' means all warm-blooded species

and all cold-blooded, but does not include man. Similarly, in the Cruelty to Animals Act, 'animal' means an animal of any kind or species other than man.

Mr Gelling also asked 'What do you mean by the word "sufficient?"' The answer was, there is no simple or single answer to what is meant by 'sufficient'. The word has to be read in its full context of evidence sufficient in the opinion of the prosecutor to justify the proceedings. The department will provide such evidence as comes to light. The department relies on the learned advice of Her Majesty's Attorney-General and his legal officers as to whether the evidence is sufficient to justify proceedings. The final arbiter as to whether the evidence is sufficient is the court itself.

The hon. Dr Mann queried the reporting procedures as to cruelty to animals: should not the department be regularly inspecting all farms, including the outlying ones? The answer was, the department carries out inspection of most farms from time to time. There are a number of schemes, for example, which require inspection of livestock and buildings by the department's officers. Some inspections are directly in respect of hill land and livestock kept there. Hill land is probably the nearest the Island comes to having outlying farms. The concept of an outlying farm is probably no longer relevant to the Island though in times past areas such as Ronague may have been considered somewhat out of the way. (*Laughter*)

Mr Lowey: You speak for yourself!

Mr Waft: Such inspections and word of mouth are normally sufficient to identify potential problems. However, it is not feasible to inspect all farms at all times, (a) because of the resource implications and (b) because the majority of farms do not warrant it, and if an analogy were drawn with social services and the care of children, there are cases from time to time where there is abuse of some kind. However, the Social Services cannot and would not be expected to visit every home to inspect the children there.

I think, Mr President, I have answered all the questions that were asked and I beg to move the third reading of the Bill and that it do pass, sir.

Mr Lowey: I beg to second, sir, and reserve my remarks.

The President: Hon. members, I think it is quite interesting that the parish of Arbory has five milk producers and four of them are in Ronague (*Laughter*) Does any other hon. member wish to contribute? Mr Gelling.

Mr Gelling: I must say, Mr President, I am still a little anxious about there being no definition of an animal, because everything is an animal; even a longtail is an animal. Do I take it if you hit one with a spade now that would be deemed as being cruel? Or letting a terrier off to rip them out of a barn, or . . . ?

Where does the definition finish? I am concerned about what that animal definition was?

The President: Mrs Christian.

Mrs Christian: I just want to thank the hon. member for his clarification in respect of ownership and 'keeper'; although the word 'keeper' may not have been the appropriate one the hon. member has clarified that. I am not sure whether I am surprised or not, but in the context of the Bill, obviously it is the person who is caring for the animals who is the most significant person, and I wonder why ownership should be an issue there where appropriate care is the more relevant thing, and the person who is deputed to provide that care is the most significant person. However, I appreciate the explanation that the hon. member has given me.

The President: Mr Waft to reply.

Mr Waft: Thank you, Mr President. I thank Mrs Christian for the knowledge that she is happy with the Bill now. With regard to longtails, Mr Gelling, perhaps the Attorney-General might like to answer that one? (*Laughter*) You could see that coming!

The Attorney-General: Yes, indeed! Mr President, I do think that is a somewhat unfair question, (*Laughter*) but anyway I shall do my best to!

Mr Lowey: Go to Ronague!

The Attorney-General: I think that we clearly have to look at the context of the legislation and the mischief it is intended to combat. Although animals are widely defined, as the hon. member has said, I think that the purpose of the legislation is to impose criminal sanctions on people who wantonly or unreasonably do any act which causes unnecessary suffering to an animal, and I think that if the Attorney-General's Chambers were asked for advice as to whether an offence could be committed in relation to a longtail, the advice would be in the negative. So I think, Mr President, we have to adopt a sensible approach to the legislation, although sometimes this wording can be strained to achieve an unreasonable result.

The President: Do you wish to add to that, Mr Waft?

Mr Waft: No, I think that clarifies it. (*Laughter*)

The President: Mrs Christian.

Mrs Christian: Mr President, I think we need to bear in mind again the context, because there are some people who keep longtails in their different form as pets, and they could be subject to cruelty in the same way as any other animal. So it is all in the context, I am sure.

The President: Okay, hon. members, with those comments from both the member in charge and from Her Majesty's Attorney-General, I put to you that the Agriculture (Miscellaneous Provisions) Bill be read for a third time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Matrimonial Proceedings Bill – First Reading Approved

The President: So we will turn to item 4 on your order paper, the Matrimonial Proceedings Bill in the hands of Her Majesty's Attorney-General, and it is for first reading.

The Attorney-General: Thank you very much, Mr President. The Matrimonial Proceedings Bill 2002 is intended to consolidate in a single Act the existing legislation relating to legal proceedings between husband and wife and to introduce a number of changes designed to bring the legislation up to date.

Part 1 of the Bill deals with divorce and annulment. Parts 2, 3 and 5 are concerned with claims for maintenance and other financial matters both during and on the termination of marriage. Part 4 is concerned with disputes over the matrimonial home and violence within the family, and part 7 deals with other matters relating to the property of married and engaged couples. Part 8 contains a number of miscellaneous and supplemental provisions.

There are currently five principal pieces of legislation which deal with matrimonial proceedings, and I understand that a proposal to consolidate this legislation, which included numerous amending Acts, has been on the table since 1988. However, the Law Commission of England in 1991 made a recommendation to reform the grounds and procedures for divorce, and the proposal to consolidate was therefore shelved pending the enactment and implementation of any new legislation in England and Wales. However, it will be recalled that last year the United Kingdom Government announced that the proposals to introduce legislative reform were abandoned. In the meantime a more limited consolidation was introduced in the Island by way of the Matrimonial Proceedings Act 2001, which re-enacted in a single measure the then heavily amended legislation relating to financial claims in the High Court and introduced new provisions relating to pension-sharing and the reciprocal recognition of certain financial orders made by the law of any part of the United Kingdom or of the Channel Islands.

With the abandonment of the proposals to reform United Kingdom legislation the way is now clear to consolidate all the existing Manx legislation on matrimonial proceedings in property. The Bill therefore re-enacts the Manx legislation, including the 2001 consolidation, in a single measure with one major set of reforms and a few minor changes of substance.

The major change is in part 4, which contains a new code relating to domestic violence and the

matrimonial home, replacing the Matrimonial Homes Act 1971 and the various provisions relating to domestic violence. The minor changes are in certain clauses in part 7 and are intended to remove the few remaining inequalities in the treatment of husbands and wives as respects property. There are also some changes in the nomenclature designed to modernise the language of the law in this field. The term 'cause' is replaced by 'proceedings,' 'petition' by 'application,' 'decree by 'order,' 'decree nisi' by 'provisional order' and 'decree absolute' by final order.

Mr President, in those circumstances I move that the Matrimonial Proceedings Bill 2002 be now read a first time.

The President: Mrs Christian.

Mrs Christian: I beg to second and reserve my remarks.

The President: Mr Delaney.

Mr Delaney: Yes, it is not so much on the content of it, but it is obvious to me . . . I recently had a very distressing case – I mentioned it to my colleague, Mrs Christian this morning – and it involved somebody who – something which is more and more common in this Island and worries me now – was for more than two dozen years living as man and wife, he unfortunately died and she found she was left homeless completely because he had not made a will, and I am wondering . . . Once again, by the way, there is nobody in the press gallery to cover this item, which is the way to get the message across to the public, because if they do not make a will, of course, they have no claim against the estate at all, really, if that is the situation, and the property and what was really a 'common law marriage', if you want to use the expression, became very, very difficult. With more and more young people, to use the old expression, 'living over the brush', I wonder how many of them know the dangers they are in if their partner does not make a will, and yet nobody seems to be getting the message out there to them of this danger. I know the Bishop would say, 'Well, they should get married.' I agree, it is old-fashioned, if you like, but it certainly leaves them in an awful lot of danger, an awful lot of people out there, and I have been worrying how I can get the message out there to make sure they make provision in this way, because this was a very distressing case.

The President: Mr Kniveton.

Mr Kniveton: Yes, I understand what the hon. member is saying, Mr President, but in the outside world we hear the expression 'common law wife' – could the Attorney-General define to us in brief, not particularly concerning this case, what the 'common law wife' rights are?

The President: Mr Waft.

Mr Waft: Yes, it is just that there does appear to be a lack of legislation to cover modern-day living. The mechanics of family life have changed over the years and legislation needs to be catching up with the problems that have ensued because of that. Irrespective of what we want to happen and what does happen, we must keep apace with what is actually happening in society and the problems of domestic violence have to be addressed quite urgently. Thank you, Mr President.

The President: Mr Lowey.

Mr Lowey: Yes, I almost dread to come into this position considering my non-marital status. However, having said that, I think the law, and this legislation particularly – breakdowns in relationships are painful and sad, and I think the law should, in my view anyway, attempt to create a climate where those parties that are obviously hurt . . . and there is no disguising that it is a hurtful position. That hurtful position sometimes gets into what I would call a hateful position where everything . . . and I am not just talking about the disruption of physical goods like houses and property and that, but where children become involved and sometimes it is a sad reflection, in that children are then used as well, and I think the law has got to try and create a climate where people can unravel in a civilised way. I think this is a brave attempt at the law trying. There are no winners in this situation – the law or the individuals concerned. However, I think it is the duty of the law to try and create, and that is why I think the law is being brought together – so it can be more readily and easily understood, and I think it should be supported.

I have a few comments to make at the clauses stage; however, I support the principle of the Bill, but it is a painful area which I think has got to be addressed, and there are some really bad anomalies. We have heard of one this morning; I could give you two or three others quite easily in our own circle of friends where this happens, and I think, in all fairness to those people, the law should recognise in this day and age their commitment, albeit not in the formal way, and I support my colleagues who have mentioned it and drawn attention to one particular instance to illustrate a strand of society that should really be looked at in a sympathetic way. No matter what our own likes and dislikes or preferences would be, I think we really do have a duty, in making law, to make it a much more acceptable climate in which to operate. I applaud the government for bringing in this vital bit of social legislation.

The President: Dr Mann.

Dr Mann: Yes, Mr President, although it may sound strange I think we should welcome the fact that this Bill is coming before us. It is certainly not going to be an easy Bill to go through clause by clause and I think it is very important that, in particular when you think of the rather rough history this Bill has had in another place, we do consider this Bill very carefully. I

think the most important thing is that we get the balance right between man and woman who, as many members have said, are now living outside the traditional matrimonial structure, and from both sides there is a feeling that it is becoming unbalanced one way or the other. That is why certainly I support the concept of the Bill, but I think we have got to go through it very carefully and make sure that we get the balance right in the end, because, as sure as anything, this has got to go back to the other place anyway after we have given due it consideration.

The President: Mr Gelling.

Mr Gelling: Yes, Mr President, I support the principle of the Bill and, just listening to the other members of the Legislative Council, it is difficult, of course, to legislate for every incident that will happen; there always will be those that fall outside. It is a very difficult and sensitive Bill which, I concur, will have to be dealt with very sensitively, but I think it is welcomed, certainly by myself.

The President: Mr Attorney, reply, sir?

The Attorney-General: Yes, thank you very much, Mr President. I am very grateful for the comments of hon. members broadly in support of the introduction of this legislation, and I will do my very best to treat the legislation with the care it deserves.

If I may just deal with the points which have been raised by hon. members, in relation to the question raised by the hon. member Mr Delaney, I quite agree that injustice can be caused when a couple have been living together, particularly for many years, are not married and one of them dies and, under our Administration of Estates Act, the surviving ‘spouse’ is not actually a spouse and therefore is not entitled to a share of the estate of the deceased person, and you suddenly then find that members of the family of that deceased person –

Mr Delaney: Very much so.

The Attorney-General: – with whom the deceased has had little or no contact, perhaps, over the years, can step in, take the estate and the surviving ‘spouse’ is left with nothing.

There is a piece of legislation, the inheritance family provision Act, which does enable a surviving person who has been maintained by the deceased during his or her lifetime to make an application to the court within, I think, six months of the grant of administration of the estate, and when the court looks at all the facts the court can make a financial provision order in favour of the survivor and therefore, although there is great hardship caused on the face of it, that legislation is designed to ameliorate the problem.

Mr Delaney: Name that then, please.

The Attorney-General: It is the Inheritance (Provision for Family and Dependants) Act – I cannot just remember the year, but certainly that is designed to enable a person, amongst others who has been maintained by the deceased, to make an application to the court, and I am quite certain that your constituent or friend would be able to obtain advice from an advocate in relation to that. Of course it is very important, Mr President, and I think that the Law Society takes a rôle in making known to the public the dangers of not making wills, and I think actually the Office of Fair Trading have issued, in conjunction with the Law Society, a booklet which explains that danger, but it is certainly something that needs to be brought to the attention of the public, I entirely agree.

The question raised by the hon. member Mr Kniveton about the rights of commonlaw wives – that is a very big issue and, if I may, bearing in mind that I must deal with this legislation carefully, I will try to come back on that in the course of consideration, but certainly we will see that, particularly under part 5 of the Bill, there are rights given for so-called cohabitants, people who are living together, and you have rights to remain in a property which they have been using or treating as their matrimonial home. I think again that it is entirely proper that where people are in a fixed relationship, albeit they are not married, they should have rights not to be subjected to violence and not to be excluded from their home. Indeed, the courts are more and more able nowadays to apply the notions of trusts in protecting the interests of people who have acquired interests in property, and of course we have heard and read that in England same sex couples are entitled to rights one against the other and indeed to rights of inheritance, so all these things are developing gradually and this Bill may be first of several pieces of legislation designed to protect people who are in fixed, long-term relationships but are not married.

I entirely agree with the comments made by the hon. member Mr Waft and by the hon. member Mr Lowey. Domestic violence and the way that children, particularly, can be dreadfully hurt by domestic violence in the household is something which needs to be guarded against in the extreme, and I think this legislation will go some small way towards protecting children. As ever, the rights of children are paramount in dealing with financial provision orders and the courts, under this legislation as under the existing legislation, will always look to do their best to safeguard the interests of children. This is an important piece of social legislation. I entirely agree that divorce can be a most painful experience for those concerned.

I thank the hon. member Dr Mann for his comments. It is indeed not an easy piece of legislation and we must try to achieve a balance between rights of married couples, of course, which one can readily appreciate, and perhaps sometimes the spurious claims of non-married couples. It is often, of course, very easy to make a claim saying that you are entitled to a share of someone's money because you have been living with him or her for a period of time; this is a difficult

question whether that person is entitled to an order. Indeed, I agree with the hon. member Mr Gelling: it is a difficult and sensitive piece of legislation, Mr President, and I look forward to hopefully being of assistance to hon. members in that regard.

Mr Delaney: Thank you, Mr Attorney.

The President: Hon. members, I put to you, then, item 4 on your order paper, that the Matrimonial Proceedings Bill be read for a first time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Medicines Bill – First Reading Approved

The President: We turn to item 5, hon. members, which is the Medicines Bill, and I call on the hon. member, Mrs Christian.

Mrs Christian: Thank you, Mr President. The Medicines Bill 2002 sets out a new system under which the manufacture, import, export, sale, supply and advertising of medicinal products for both human and animal use can be regulated in the Isle of Man. The Bill is a consumer protection measure which is intended to prevent the sale or supply of medicinal products on the Island which are not of the required standard or which could be dangerous to human or animal health.

It takes as its starting point the Medicines Act of 1976 and restates those parts of that Act which relate to consumer protection, regulation of pharmacies, control of advertising and enforcement. However, it replaces the systems of licensing set out in the 1976 Act and in their place confers wide regulation-making powers. These powers can be used to set up a licensing system where it is appropriate on the Island – for example, to regulate wholesale distribution or for the registration of pharmacies. However, these regulations are principally designed to give legal effect in the Isle of Man to licences and authorisations granted in the United Kingdom or by the European Community for activities such as manufacturing and marketing of medicinal products. The manufacturing trade in medicinal products is an international matter in which the Island plays its part, but the DHSS considers it is important to have the highest standards of regulation to ensure that the residents of the Island have access to good quality medicinal products and to ensure that companies based on the Island have a modern legislative base which will support their trade in medicinal products both on the Island and elsewhere. It is inappropriate to have a licensing régime in the Island – for example, for the manufacture of products; we are too small a community and therefore look to the United Kingdom and Europe to grant those sorts of authorisations.

I beg to move the first reading of the Medicines Bill 2002, Mr President.

Mr Lowey: I beg to second, sir, and reserve my remarks.

The President: No comment on the Medicines Bill, hon. members? In that case I put to you that the Medicines Bill be read for a first time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

sit in private to consider the Council of Ministers summaries. Thank you.

The Council sat in private.

**Property Service Charges
(Amendment) Bill –
First Reading Approved**

The President: We will turn to item 6, the Property Service Charges (Amendment) Bill in the hands of Mr Delaney for first reading.

Mr Delaney: Thank you, Mr President. I do not believe in volunteering too quickly for many things in life, I learned that a long time ago, but in this case I volunteered very early on when this Bill started its passage through the House of Keys, because it will give me the opportunity to right a wrong that I was not responsible for but I was party to when I moved the Landlord and Tenant Bill in the year of 1988 in the House of Keys.

I read out at that time what I was briefed on, that that Bill would give protection to people who were tenants in properties which were jointly owned. I then found out consequently, we had a situation where the landlords had still more rights, total rights, in relation to certain actions in the Isle of Man. The Property Service Charges (Amendment) Bill of 2002 will rectify and put back what I thought was already in the original Bill. The Bill itself will not cure all the problems of those people who are tied up in this sort of property transaction, but what it will do is give them some more protection and rectify, as I said, the wrongs.

The Bill is a good piece of legislation. It will go a long way to what was originally perceived by the local government department, which at that time I was the minister of, and it will, I hope, give the Isle of Man people some satisfaction and belief in the legislation that we pass here, that we are prepared to amend, albeit in hindsight, legislation that we find does not work for their benefit.

I beg to move the first reading, Mr President, of the Property Service Charges (Amendment) Bill 2002.

The President: Mr Lowey.

Mr Lowey: I beg to second, sir, and reserve my remarks.

The President: Hon. members, no comment coming forward for the first reading on the Property Service Charges (Amendment) Bill, I put to you that it be read for a first time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Now, hon. members, that brings us to the conclusion of our order paper. The Council will now