

# **REPORT OF PROCEEDINGS OF THE LEGISLATIVE COUNCIL**

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**Douglas, Tuesday, 28th January 2003  
at 10.30 a.m.**

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Present:

The President (the Hon. N Q Cringle), the Attorney-General (Mr W J H Corlett QC), Hon. C M Christian, Mr D F K Delaney, Mr D J Gelling CBE, Mr E G Lowey and Mr G H Waft, with Mrs M Cullen, Clerk of the Council.

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*The Chaplain of the House of Keys 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, who I visited yesterday and members will be pleased to know is in much better spirits and is hopeful that shortly he will be able to rejoin us. The other three members who are missing are the Lord Bishop, Mr Kniveton and Dr Mann, and all three are indisposed this morning.

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### Welcome to Distinguished Guest

**The President:** Hon. members, before turning to our agenda perhaps it would be an appropriate moment at which I could welcome to our midst this morning Her Excellency the High Commissioner of Namibia, who has joined us here in the public gallery this morning. It is certainly with considerable pleasure that I had the opportunity to talk with you yesterday and it is nice that you are visiting our Island at such a time when both our branches, the Keys and the Legislative Council, are sitting this morning, so you will see us actually engaged in the business of trying to create new or amend the law which is already existing on the Isle of Man. We certainly welcome you most sincerely to the Island and hope that you will thoroughly enjoy your visit. Maybe we will in some manner benefit both our nations by the friendships which we can engender on such visits as you are making to the Island this morning. Thank you very much.

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### Matrimonial Proceedings Bill – Second Reading Approved

**The President:** We turn then now to the Matrimonial Proceedings Bill; it is for second reading. I call on the Attorney-General.

**The Attorney-General:** Thank you, Mr President. The first reading of this Bill took place on 3rd December last and hon. members there did express various matters of concern in relation to the Bill, dealing as it does with difficult and often sensitive matters which require careful scrutiny.

I did explain that the Bill is essentially a consolidating Bill but, with a view to assisting hon. members in the consideration of the second reading, perhaps it might be appropriate if I give a very brief review of the history of the legislation so that it might assist hon. members.

In the Isle of Man and in England and Wales matrimonial law was formerly the province of the Ecclesiastical Courts, which had power to grant two kinds of decree: firstly, a decree annulling the marriage – that is, declaring it to be null and void on grounds such as the close relationship of the parties or non-consummation of the marriage – and (b) a decree allowing the spouses to live apart, now called judicial separation, on the grounds of a matrimonial offence,

such as adultery, desertion or cruelty. A full divorce dissolving a marriage could be effected only by a private Act of Parliament. In 1857 the matrimonial jurisdiction of the Ecclesiastical Court in England and Wales, together with the power of the common law courts to award damages for adultery, was transferred to a new Divorce Court, which was given power to grant a decree of divorce based on the matrimonial offence. In the Isle of Man the matrimonial jurisdiction of the Ecclesiastical Courts was transferred to the newly established High Court in 1884, but without power to grant a divorce. The practice of seeking a divorce by Act of Tynwald was begun in 1879 and continued until 1938, when the High Court was given similar powers to the English courts.

Minor reforms apart, the system under which divorce could be obtained only on the grounds of a matrimonial offence of one of the parties remained in place until 1972. No petition could be presented within three years of the marriage, except on the grounds of exceptional hardship or the respondent's exceptional depravity. In England and Wales the grounds for divorce were radically altered in 1969, when the concept of irretrievable breakdown of marriage replaced that of the matrimonial offence as the sole ground for divorce. However, the court was not to find that the marriage had irretrievably broken down except in the following cases: adultery, unreasonable behaviour, desertion for two years, two years' separation with consent, and five years separation. This was followed in the Isle of Man in 1972.

The system which has operated since 1972, with a few changes since then, is substantially restated in part 1 of the Bill which we have under consideration today, and it would be that part which I would wish to examine more closely when we refer to the Bill in committee.

**Mrs Christian:** I beg to second, Mr President.

**The President:** The second reading is seconded by Mrs Christian. Mr Gelling.

**Mr Gelling:** Mr President, at this time, having taken on board what Mr Attorney has said, the clauses stage will be when we can really get into the clauses, but I thought there were just two areas that jumped out for me on this, and one was the one where it gives the court a discretion to refuse a divorce on the basis of five years' separation where the divorce would cause the respondent grave hardship. But then also, following that a few clauses later, it makes special provision for the protection of the respondent where a divorce is granted on the basis of two or five years' separation. So I was wondering whether Mr Attorney perhaps could explain: if the court has the power to make provision for the respondent, why then would you use clause 6 to not give a divorce after five years due to the respondent's hardship?

That was that one, and the other was where it makes special provision for the annulment of overseas marriages where the law of a country outside the Isle

of Man or the old common law rules about marriage may affect their validity. Now, again this is becoming now more common than it used to be where people go off to all parts of the world to get married; do they not have to register and get a licence in the Isle of Man to make that possible? So if the law of the country where they got married was in some way changed, how would that perhaps annul their marriage?

**The President:** Mr Lowey.

**Mr Lowey:** Just to comment, Mr President, this is a major piece of social legislation, and as the family is at the heart of our society it is right that it should be given close scrutiny. It is not a minor Bill, it is 140 clauses and, I think, seven or eight schedules. My only part in this really is to try and make sure that the legislation creates a climate for people to amicably settle their differences, because when a breakdown occurs it is very important, especially if there is a family issue and children involved, that the law should be there to take the ire out of the fire. I know there is the proof of that is in the clauses and we will debate the clauses, all 140 of them, but I do believe that it is right that the government should have addressed the problem, because this is the very heart of society. It has not been amended, it needs to be consolidated, and, while it may not set the world on fire outside, its impact on life for the people that we represent could be far-reaching, so I think it is right that we should attempt to give it close scrutiny when we get to the clauses. I support the Bill, by the way, and its aims.

**The President:** Hon. member Mr Waft.

**Mr Waft:** Thank you, Mr President. I too support the Bill. It is long overdue and it is fully concise, I think, within the content and covers lots of other areas aligned to the matrimonial proceedings. I just make the comment that it is matrimonial proceedings, it does not affect common law partners and yet it does refer to common law within the Bill with regard to different areas of the Bill.

**The President:** Now, Mr Attorney.

**The Attorney-General:** Thank you very much, Mr President. Some interesting questions have been raised by hon. members in this second reading. If I may deal first of all with the points raised by the hon. member, Mr Gelling, the question of the five years' separation, it will, of course, be apparent that a respondent to a divorce based on five years' separation may have done nothing wrong at all – in other words, no question of a matrimonial offence; it may simply be that the petitioner feels that he or she cannot live with the respondent any longer and the parties live apart. Now in those circumstances, one can easily envisage situations where it would be inequitable and very unjust if a respondent were to be divorced at the suit of the petitioner where he or she has done nothing wrong, but the respondent may lose, for example, a very

valuable property asset such as the future benefit to a pension, or if, for example the respondent had to look after children and the court was very concerned about the financial well-being of the respondent and the children. So where the respondent is not guilty of any wrongdoing whatsoever, although the marriage has broken down irretrievably, the court has a residual discretion to say 'Well, despite the fact that they have lived apart for five years, I do not consider that in these special circumstances the respondent should have a divorce order made against him or her. I would suggest, Mr President, that it is going to be a fairly rare event that the court would exercise its discretion not to allow a divorce under those circumstances, because clearly, if they have lived apart for five years, the marriage may well be an empty shell, but nonetheless the policy which has been in our legislation since 1976 has always been to have a residual power in the courts to deal with those exceptional cases.

The other very important and interesting question raised by the hon. member was in relation to the validity of divorces and indeed marriages solemnised outside the Isle of Man and the way the courts here will recognise those. I hope the hon. member will not feel I am dodging the question, but it is quite a complex area which I think could usefully be dealt with at the clauses stage. Suffice to say that the policy certainly is that, in relation to matrimonial proceedings in the British Isles, and Jersey and Guernsey of course included within that, the policy is to make those orders in the British Isles easily recognised and acted upon by the courts here. Looking further, the courts have to consider the effect of the orders under the country's laws, and, as I say, could I, if I may, defer that to the clauses stage, Mr President.

The hon. member Mr Lowey raises a point which really was fundamental to the Divorce Reform Act in the United Kingdom in 1969 and which we took on board in 1971, namely that it is essential that there should be attempts at reconciliation despite the fact that to all intents and purposes the marriage has broken down, and we will see, Mr President, in clause 7, I think it is, of the Bill, that if at any stage of proceedings for divorce it appears to the court that there is a reasonable possibility of a reconciliation between the parties, the court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect such a reconciliation, and certainly under the old law an advocate had to certify that he had discussed the possibility of reconciliation with the petitioner and had advised him or her as to marriage guidance and so on, and that, I hope, will continue to be the case.

The hon. member, Mr Waft, refers to the fact that so-called common law marriages do feature in this Bill, and they do; I think that this Bill recognises that there are in these days relationships which are of long standing where a party can quite properly acquire property rights against the other even though they are not married, and again, as we will see at the clauses stage in relation to property which has been bought by the partners, to a certain extent they can be treated as

husband and wife, but again if we can consider that at the clauses stage, Mr President?

**The President:** Okay, hon. members, the motion which I put to you is that the Matrimonial Proceedings Bill be read for a second time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

## **Medicines Bill – Second Reading Approved**

**The President:** We will turn then to the Medicines Bill, hon. members – I make the point that we are just taking second readings this morning – and I call on Mrs Christian.

**Mrs Christian:** Thank you, Mr President. Just to recap on the first reading, which was some weeks ago, the Medicines Bill provides for a revised and updated system under which the manufacture, import, export, sale, supply and advertising of medicinal products both for human and animal use can be regulated on the Island. It is primarily a consumer protection measure which is intended to prevent the sale or supply of medicinal products which are not of the required standard or which could be dangerous to human or animal health.

The Bill restates elements of the Medicines Act 1976 relating to consumer protection, also in relation to the regulation of pharmacies, the control of advertising and enforcement, but the Bill also gives powers to the DHSS to bring forward new systems of licensing and confers wide regulation-making powers on the department.

In recent years, Mr President, member states of the European Community have come together to introduce a single market in medicinal products by harmonising their national laws. To achieve this it has set up a European scheme of control under the European Medicines Evaluation Agency. As part of this harmonisation process, United Kingdom legislation on which current Manx law is based has become increasingly subordinate to European Community legislation. As a consequence of this, an increasing quantity of UK secondary legislation is not made under its Medicines Act 1968 but under the European Communities Act 1972 in order to provide for a single scheme of regulation throughout all member states.

The enabling powers contained within our Medicines Act 1976 under which the UK legislation can be applied to the Isle of Man are not sufficient to allow European schemes of control to be recognised within Manx law. There are alternative methods of achieving this effect on the Island but they involve long-winded and complex procedures. There is potential, therefore, that without enforceable systems of control to the highest international standards the Isle of Man could become a back door through which medicines manufactured here or elsewhere, without complying with EC requirements, could be imported into the European Community.

Although European medicine legislation is not binding on the Isle of Man, one aspect concerning veterinary medicines must in practice be implemented here in order to allow the free trade in meat and dairy products. If European controls on veterinary medicines are not enforced here the export of Manx meat to member states could be prevented. Accordingly, the effective application of those controls is vital for the agriculture of the Island.

In order to reflect the European regulatory environment for medicinal products, the department decided to bring forward new primary legislation in order to ensure that the Island regulates the trade in medicinal products to the same standards as other jurisdictions. The alternative to relying on the regulation of medicinal products through the UK and European legislation would be for the Island to operate its own product licensing system, which I am sure that hon. members will accept is completely unrealistic in terms of the necessary professional staff and facilities in the Island, and such a régime could not be developed except at enormous cost.

Mr President, I do invite members to support the Bill so that the department may continue to ensure high standards both for human and veterinary medicinal products. I therefore beg to move the second reading of the Bill.

**The President:** Mr Gelling.

**Mr Gelling:** I second, Mr President, and in so doing, and being supportive of the Bill, I just wondered whether the hon. mover could just perhaps enlighten me as to what we used to call the UK list of medicines. Now, does this in any way affect that, because is that not a list of medicines which are available to doctors to prescribe in the Isle of Man, and does this not go further than that and say what drugs would be legally available in the Isle of Man? In other words, what is the list, is that affected in any way at all, the one we refer to?

**The President:** Mr Waft.

**Mr Waft:** Yes, on a similar vein, Mr President, the pharmaceutical group do give out lists of medicines that are available to the GPs et cetera, but there is a widening, burgeoning amount of homoeopathic medicines which do contain medicines which can be interpreted either way, either under prescription or some under prescription which are incorporated under homoeopathic. I just wondered where homoeopathy ends and medicine begins and what the examinations will be that will take place to ensure that medicines which are for sale, be they homoeopathic or recognised medicines, will be policed. It does make reference to the analysis possibility of a product which is bought over the counter and what sort of price will be involved to getting that sample analysed by the Department of Local Government and the Environment, I take it to be. Is it a minimal charge or

will it vary considerably? There is no statement as to how much the cost will be in the Bill?

**The President:** Mr Lowey.

**Mr Lowey:** Yes, could I just to say I will support the Bill. Perhaps the minister could give me clarification: the opening paragraph of the explanatory memorandum, highlighted by the minister, is that this Bill replaces the control of pharmaceutical products under the Medicines Act of 1976, and I share her concerns that we cannot be allowed to be a back door for 'dodgy' medicines or substandard medication. Does this Bill control the supply of medicines to individuals? In the UK, for example, at the moment we are led to believe, if you believe the media, that they are actually looking at ways of opening up competition for chemists in supermarkets, and they seem to be relaxing the controls on the outlets of prescribed drugs as opposed to the tight control that we would appear to have on the supply through a limited number of chemist outlets on the Island. Is that a policy and is it controlled by this particular Bill? I am sure we will get that when we get to the clauses stage in detail, but the principle seems to me to be right to control illegal drugs or substandard drugs and not allow the Island to be used as a back-door method of supply wholesale, but on an individual level there seems to be a tendency in our surrounding jurisdictions to make them more available at more convenient outlets, as opposed to ours, which is very restrictive.

**The President:** Mrs Christian.

**Mrs Christian:** Thank you, Mr President. If I could first respond to the query from my hon. colleague, Mr Gelling, the United Kingdom lists to which he has referred will still be applicable in the Isle of Man. What this legislation does is recognise that the United Kingdom now combines with European countries to form a standardised list, and at the moment we do not have the mechanism in our legislation to adopt those European lists in a very easy way. What the change in this legislation will do is allow us to adopt in the Isle of Man, in a simple manner, the sort of legislation which we hitherto adopted from the United Kingdom – not that we are obliged to follow Europe, but what we want to do is follow the best possible standards in terms of pharmaceutical products, which is now becoming a European standard. So there will still be lists as to what is appropriate to be used in terms of medicinal products, and those will be very well defined in the same way as they have been in the past, but they are coming from a wider area.

The hon. member Mr Waft asked about homoeopathic medicines. Now, homoeopathic medicines are currently regulated under the Medicines Act 1976, our current legislation, and it applies UK legislation applying to those products in the same way as it does to none-homoeopathic medicines. The United Kingdom, again, is looking to European

legislation to establish standards and so this legislation will continue to allow us to control homoeopathic medicines on the basis that such medicines have a European seal of approval. Now, there are, of course, other products; I can think of examples, say, in traditional Chinese medicine which would not necessarily meet the approved standards and which would not be available under the Medicines Act in the Isle of Man if those medicines were not approved on the UK or European lists.

The hon. member asks about the price involved in getting a product analysed. I have absolutely no idea, Mr President! It is not a function of the Bill to deal with those issues, but if a member of the public wanted to challenge whether or not a product was being appropriately sold – and this legislation does deal with advertising and approvals and so on, they could first approach the department and, if it was felt that some part of the law had been breached, then steps could be taken to presumably establish whether or not the product was being appropriately advertised or sold with correct labelling and so on.

The hon. member Mr Lowey has raised another point, and that really was more about availability of medicines rather than whether they were on lists or not. He is quite right to suggest that there has perhaps been an opening up of the numbers or locations or outlets where approved medicines may be available. That does not in any way reduce the standards of the medicines themselves or the definitions of whether they are medicines or whether they are for sale by retail or by prescribing only. It simply makes them available in more outlets. Now, in the Isle of Man that could be done. Currently we have procedures which establish a list of pharmaceutical professionals or businesses which are used for NHS purposes; we could open that up and allow anybody who is suitably qualified to be approved for prescribing purposes. However, in the past a balance has tried to be found between sustaining a reasonable amount of business for any pharmaceutical concern in order to ensure that businesses remain viable. It is an option to have an 'open house', but the point really is that those moves are to deal with availability and not reducing any standards. The hon. member has, I think, also perhaps implied that other people would be prescribing, and there is a provision in the Bill which does allow exemptions to be made so that a wider group of people under very defined parameters would in the future, if the department brought forward regulations and got the approval of Tynwald to do so, be enabled to prescribe in certain circumstances, and I think that reflects the changing nature of health care delivery.

**Mr Lowey:** That is the point I was making, Mr President, that with nurses now taking on a wider rôle in surgeries and doctors doing operations, (**Mrs Christian:** Yes.) it is wider, and this Bill does not restrict that.

**Mrs Christian:** No, it enables it to go further should the department and Tynwald wish to see that happen.

**The President:** Mr Gelling.

**Mr Gelling:** Mr President, just hearing my hon. colleague replying to that, does that actually create, perhaps, a fear for us out in the country? (**Mr Delaney:** Hear, hear.) I see more and more medicines that were only prescribed through a chemist but are coming out now and being on the shelves of stores, and I just wonder whether there is something we have got to be very careful about here, in that if you allow too much to come out into the ordinary shop, the chemist will not be viable and therefore for prescriptions . . . I am thinking of the one in our local village who just survives because the doctor is down the road. Is there a fear, perhaps, that a lot of these drugs will become freely available through a shop and not through a chemist? I just pose the question.

**Mrs Christian:** Mr President, I think the hon. member perhaps is confusing prescribed medicines with retail sale medicines. There are a number of products we can all go and buy over a counter of any shop which do not have to be prescribed by an approved practitioner. Now, it is not for the NHS, for example, to control where those products are sold; that is a matter for the commercial market. Now, if you are saying that a pharmacy relies to some extent for its business on those retail sale products, I have to agree with that, but the primary concern from the NHS is to make sure that we have sufficient qualified people to prescribe NHS prescribed medicines. Indeed, this does not deal with only the NHS, it does deal with the prescription of other medicines as well, but the hon. member is right: those supermarkets could employ, with the department's approval, on the list an approved pharmacist. Up to now the department has tried to sustain a balance between the traditional businesses and supermarkets. I cannot speak for the committee at the moment, but we were trying to ensure that not all business moved into supermarket locations, because we do understand that availability to local communities is important.

**Mr Gelling:** If I could come back again, Mr President, no, I think the fear that suddenly came across me was that perhaps more drugs that are under prescription at the moment might become sold on the shop shelf rather than through prescription, which would dilute the viability of the chemist. In other words, the fear really is not that those that are now available could be sold through a shop; it is that we actually move down the road whereby things that at the moment you can only get on prescription might become a shop article.

**Mrs Christian:** Mr President, I do not see a sudden loosening of the controls over what are prescribed medicines. It may be, indeed, some move

from that area into both areas; for example, at the moment there are products that can be both prescribed and bought retail. You can buy aspirins and paracetamol, but you can also have them prescribed, but on the whole I would think that strong cases would have to be put, I think, by the medical profession and the pharmaceutical profession to move products from prescribed only to retail and prescribed medicines.

**Mr Gelling:** Thank you, Mr President.

**The President:** Well, hon. members, if you are all content with the explanations given, I put to you the motion that the Medicines Bill be read for a second time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

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### **Property Service Charges (Amendment) Bill – Second Reading Approved**

**The President:** Our third item on the order paper is to deal with the Property Service Charges (Amendment) Bill for second reading, and this is in the hands of the hon. member Mr Delaney.

**Mr Delaney:** Thank you, Mr President. May I first of all precede it by apologising for any presentation flaws that might have come from my voice; I have got a small dose of winter flu.

Mr President, as I pointed out at the first reading of this important piece of legislation, I volunteered to take it because I think it will protect certain tenants from unscrupulous landlords and excessive charges imposed by those landlords. At this point I will be helpful to hon. members and remind them of the purpose of the original Act, which is the amending legislation that this order will put through. The 1989 Act, the Property Service Charges Act, gives the tenants of residential property certain rights against the landlord in respect of service charges for the purposes of the Act and service charges of variable amount payable under the lease or tenancy agreement additional to any rent paid by the tenant to reimburse the landlord for services or repairs and maintenance or insurance or the landlord's expenses of management.

Service charges payable under a lease or a tenancy agreement are a useful and sometimes essential device for financing the continued expense of servicing and maintaining the buildings that are held in multioccupation, like a block of flats. However, they give an unscrupulous landlord various opportunities for exploiting the tenant by forcing him to pay for unnecessary work or expenses or substandard work, or work carried out by the landlord's 'tame' contractor or at inflated prices, or certified by a 'tame' surveyor. Various schemes have been devised to give tenants more say in the management of such a development, the most common being the imposition of a tenant-owned management company between the landlord and the tenant. The simple landlord and tenant set-up is

likely to continue indefinitely, particularly in the case of short-term residential lettings. The 1989 Act, which I took through in the other place, sought to remedy the situation in relation to residential property, firstly by limiting the landlord's right to recover service charges to what is reasonable, and also by setting up machinery to enable the tenant to examine the landlord's demands and to resist where appropriate. The Bill before us today, hon. members, seeks to improve the protection given to tenants by the 1989 Act.

The main principle of the Property Service Charges Bill in front of you can be summarised as follows. The Bill will provide and introduce new powers to the Rent and Rating Appeal Commissioners; in particular, tenants and landlords will now be able to apply to the Rent and Rating Appeal Commissioners for a ruling on whether or not a service charge is reasonable. Other provisions will allow the Rent and Rating Appeal Commissioners to appoint a manager to a block of flats subjected to unreasonable service charges. In addition, certain functions of the High Court under the 1989 Act they were contained in are also transferred to the commissioners. As Chairman of the Office of Fair Trading, which the original mover in the House of Keys was, they will be responsible for the Rent and Rating Appeal Commissioners, I am very aware of the important additional responsibilities for which the commissioners will be responsible. I am confident that the commissioners will be able to provide a prompt and efficient service which was not contained in the original Bill.

This Bill will also enable a recognised tenants' association to bring in their own surveyors to advise on works and expenses with the right to inspect the landlord's documents. This would mean that the surveyor would be able to inspect common parts of the property in respect of which service charges are payable, such as the structure of a block of flats as well as common facilities held by all, like staircases, fire escapes, gardens et cetera. The Bill also restricts the landlord's right to determine the lease or tenancy for non-payment of a service charge unless the charge has been agreed or adjudged to be payable by the court or arbitrator.

Apart from the additional expenditure required to cover the new responsibilities of the Rent and Rating Appeal Commissioners the Bill is not expected to have any significant effect on government revenue, expenditure or personnel. The Treasury has given its concurrence to the Bill and I hope that members, like myself, will see the necessity of this Bill, given the light of what came to pass from the original 1989 Bill that we all witnessed on the petitions of Mrs Thompson, where at least two pieces of major legislation, this being the second, have been instrumental in rectifying wrongs. I hope members will give it the support it deserves.

**The President:** Mr Lowey.

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

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, I think this legislation is to be welcomed. It has taken a little time to get it before us, but I am quite sure that when it is enacted it will be a valuable instrument in establishing a proper balance between landlord and tenant. In particular, I think it is valuable in creating a route for tenants to raise issues in a reasonably costed manner. I think, always where you get situations where tenants need to go to court, it is an intimidating situation, it is an expensive situation quite often and this mechanism for going to the Rent and Rating Appeal Commissioners can cover some of those issues in the first instance.

I welcome the second reading, Mr President, and will go into further questions when we get to the clauses stage.

**The President:** Mr Gelling.

**Mr Gelling:** Thank you, Mr President. In support of the Bill, the only thing that I must admit is that when I first heard about this particular Bill I had this feeling of a security of tenure Bill that we had many years ago and of course it had a very down effect as well as what was seen at the time as a very good effect, and we lost all our tenant farmers basically because it worked against them just as much as it worked for them, but I think, after reading the explanatory memorandum here, it does appear to me obviously to be something that is totally necessary, in particular with people in flats and apartments in blocks, as long as it also then does not affect the tenant of a cottage or a house on its own that could have a repairing lease. They could have a lease whereby they themselves do the repairs and so on. I cannot see that problem, but I am just putting a marker down to the hon. mover that that was my first impression, but I think the explanatory memorandum has cleared that, Mr President.

**The President:** Mr Waft.

**Mr Waft:** Mr President, I too am fully supportive of this Bill, and it has arisen as the mover has said. I just wonder about the situation with absentee landlords, where they do make rules and regulations of their own, and it is the awareness of this Bill when it does become an Act as to the landlord's appreciation of their responsibilities. Some of the tenants in existing properties are not aware of the Landlords and Tenants Act that is actually in being at the moment, and it would be nice to try and get something written into agreements so it is a part of the written agreement that this Act is in being and the obligations of the tenant to adhere to legislation could go as a part or the total overall agreement so the tenant is fully aware of their rights and the landlord is fully aware of his responsibilities. Thank you, Mr President.

**The President:** Mr Delaney, do you wish to reply, sir?

**Mr Delaney:** Thank you, Mr President. I thank all three members and also my seconder for their support for this Bill.

Firstly, Mrs Christian informed me of the questions she may have, and if she will give me notice of anything particularly difficult I would like to make sure it is right, because I got the last one wrong and I want to get this one right! The situation is that the expenses she referred to are totally true and unfortunately, in this chamber today, there are people who have lost an awful lot of money trying to pursue their original rights under the original Act, which was supposed to do the job. I believe this Bill will do for them, and that is a fact. The situation is that I will be happy, obviously, to clarify any queries at all at the time, but any notice of any difficult ones I would be pleased of if it is possible.

The second one, Mr Gelling's point – I am assured that this affects the people that it refers to – that is, the tenants in blocks of flats, particularly those people and not any other groups, and I thank you for your support.

Mr Waft's point, of course – I know Mr Lowey and myself and other members seem to spend their lives telling people what their rights are under the law when they are asked and when they see these difficulties arise. I am hoping that the Department of Local Government, who is responsible for this, will in actual fact give it major publicity to ensure that the people out there who are in the position of not owning the property where they reside in toto will know their rights and are protected by this particular amending Act. The fact of it is, Mr President, more and more people are now being brought into blocks of flats because of the cost of individual properties, and that is a fact of life, that is happening now, therefore this is going to a growing market and unfortunately that market has been left negligent in the past. I hope this particular Act will give them the powers and the rights they should have to ensure they are not ripped off by unscrupulous landlords. Thank you, Mr President.

**The President:** Hon. members, the motion I put to you is that the Property Service Charges (Amendment) Bill be read for a second time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Now, hon. members, that effectively draws to a conclusion the public part of our proceedings this morning. We will be taking the clauses stage of these three measures at our sitting which will start next Tuesday morning at 10.30 a.m. Thank you, hon. members.

*The Council sat in private.*

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