

M.C.D.

17th June, 1985

J & S and M Appeal against  
Greffier's Order of 14th February, 1985.

Judgment of Deputy Bailiff:

DEPUTY BAILIFF: There are three matters still in dispute between these parties. When the Greffier made the order, part of which is appealed, on the 14th February of this year, the first matter which was to be decided was the question of access. We were told that that matter arose in the course of the hearing of the summons and that the Greffier Substitute took into account the report of the children's officer before he made the order concerned. The wife considers today that the husband ought not to have any access at all and we have carefully considered the question as to whether it would be right to deprive the father of access to his children. We do not think it would be right; on the other hand, we accept and understand the very strong feelings which activate the wife and which could in certain circumstances be bad for the children if because of any order we were to make, they were directed towards the husband in such a way that the children were subjected to very strong conflicting loyalties. We think the best order to make would be in fact one in the same terms as that of the case of W.v.H., which was made in this Court in 1980, and we will make that order; Greffier have you got the order? The question there was whether access should be on the premises or at the discretion of the childrens' officer. We think that we should ask the childrens' officer to assist the Court and we are going to make an order and amend the Greffier's order in the following way: "That the respondent shall have access to the children on one occasion at least in each week, initially in the presence of the Child Care Officer or Child Officer, as the case may be, and the Child Care Officer shall have full discretion to direct at what time - if at all - the respondent may exercise access to the said child alone". It is exactly the same order as in W.v.H. but we have omitted the words "in the matrimonial home or the former matrimonial home" and we are going to ask the Childrens' Office, that in the event of any difficulties, they would prepare a further report, because it is 6 months since they have prepared their last report

and we will sit again to determine, if necessary, whether we ought to vary our present order in the light of that report. Now, we think that our order will give the children time, with guidance from the Childrens' Officer or help from them, to express views which we will take into account, if necessary, if we have to make a further order. As regards the application to set aside two further orders, that is to say, the one whereby the Greffier Substitute directed that the respondent could reduce payment to the petitioner in the event of the woman he is living with's earnings being reduced. We see no reason to alter that. He has kept to his word and he has paid money and we cannot find that the Greffier misdirected himself. As regards the car, for the reasons set out in the Greffier Substitute's report to the Court, we cannot think he has misdirected himself. The wife has had the use of the furniture; it is true he has had the use of the car, but it has been damaged. While he has limited means, he has no assets from which he could meet an order and we do not think that we are satisfied the order is wrong and therefore that order stands. As regards the costs today, we are inclined to make no order so that the parties will pay their own costs.